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FEDERAL EMPLOYEES LONG-TERM CARE INSURANCE ACT OF 1989

HEARING

BEFORE THE

SUBCOMMITTEE ON FEDERAL SERVICES,
POST OFFICE, AND CIVIL SERVICE

OF THE

COMMITTEE ON
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

ONE HUNDRED FIRST CONGRESS

FIRST SESSION

ON

S. 38

TO MAKE LONG-TERM CARE INSURANCE AVAILABLE TO CIVILIAN FEDERAL EMPLOYEES, AND FOR OTHER PURPOSES

NOVEMBER 2, 1989

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CONTENTS

Opening statements: Page
- Senator Pryor 1
- Senator Stevens 3
- Senator Roth 3

WITNESSES

Thursday, November 2, 1989

Hon. Pete Wilson, U.S. Senator from the State of California 5
Constance Berry Newman, Director, Office of Personnel Management 11
Vincent R. Sombrotto, chairman, the FAIR Coalition 19
H.T. Steve Morrissey, president, National Association of Retired Federal Employees, accompanied by Judith Parks, legislative director 21
Gail Shearer, manager, policy analysis, Consumers Union 26
Joshua M. Weiner, senior fellow, the Brookings Institution 29
James Firman, president. United Seniors Health Cooperative 31
Dennis L. DeWitt, A. Foster Higgins & Co., Inc., Los Angeles, CA 34
Bruce L. Boyd, chairman, LTC task force, Health Insurance Association of America 40
Richard V. Minck, executive vice president, American Council of Life Insurance, accompanied by Stephen W. Kraus, senior counsel, pensions 42

Alphabetical List of Witnesses

Boyd, Bruce L.:
- Testimony 40
- Prepared statement 205

DeWitt, Dennis L.:
- Testimony 34
- Prepared statement 185
- Responses to written questions 198

Firman, James:
- Testimony 31
- Prepared statement 171
- Responses to written questions 179

Kraus, Stephen W.: Testimony 42

Minck, Richard V.:
- Testimony 42
- Prepared statement 220
- Responses to written questions 233

Morrissey, H.T. Steve:
- Testimony 21
- Prepared statement 112
- Responses to written questions 117

Newman, Constance Berry:
- Testimony 11
- Prepared statement 80
- Responses to prehearing questions 87
- Responses to posthearing questions 92

Shearer, Gail:
- Testimony 26
- Prepared statement with attachments 120
- Responses to written questions 151

Page
Sombrotto, Vincent R.:
  Testimony ... 19
  Prepared statement ... 101
  Responses to written questions ... 109
Weiner, Joshua M.:
  Testimony ... 29
  Prepared statement ... 159
  Responses to written questions ... 167
Wilson, Hon. Pete:
  Testimony ... 5
  Prepared statement ... 68

APPENDIX

Text of S. 38 ... 51
Section-by-section analysis of S. 38 ... 62
S. 38: An Overview ... 65
Prepared statements of witnesses in order of appearance ... 68
Statements of:
  American Federation of Government Employees, AFL–CIO ... 245
  Amex Life Assurance Company ... 247
  Congressional Budget Office ... 251
  National Association of Insurance Commissioners ... 254
    Responses to written questions submitted by Senator Wilson ... 263
  National Association of Life Companies ... 294
  National Committee to Preserve Social Security and Medicare ... 295
  National Treasury Employees Union ... 298
"Private Long-Term Care Insurance: How Well Does It Meet Consumer Needs?" special report, U.S. Seniors ... 305
"Companies Selling Long-Term Care Insurance," Health Insurance Association of America ... 308

FEDERAL EMPLOYEES LONG-TERM CARE INSURANCE ACT OF 1989

THURSDAY, NOVEMBER 2, 1989

U.S. Senate,
Subcommittee on Federal Services,
Post Office, and Civil Service,
Committee on Governmental Affairs,
Washington, DC.

The Subcommittee met, pursuant to notice, at 10 a.m., in room SD-342, Dirksen Senate Office Building, Hon. David Pryor, Chairman of the Subcommittee, presiding.

Present: Senators Pryor, Stevens, Roth, and Wilson.

Senator Pryor. Good morning, ladies and gentlemen.

OPENING STATEMENT OF SENATOR PRYOR

I want to apologize on behalf of myself and our lead witness, Senator Wilson, for being late. We have been in a mark-up in the Agriculture Committee on the Commodity Futures Trading Commission.

We will be considering this morning S. 38, the Federal Employees Long-Term Care Insurance Act of 1989. S. 38 would allow an employee who is age 50 and has participated in the Federal Employees Group Life Insurance Program (FEGLI) for 10 years to convert a portion of that life insurance into long-term health care coverage. This bill would also allow eligible employees who want to participate in the long-term care insurance program to pay the full premium cost as determined by the Office of Personnel Management (OPM).

The Federal Government, as the Nation's largest employer, is lagging behind some 35 large corporations and several of our States which already offer employee-paid group long-term care plans. Nursing home costs, which currently average somewhere between $25,000 and $28,000 a year, pose the greatest threat to a family's economic well-being. By the year 2020, it is estimated, that when the baby boomers are in their 70's, a year's stay in a nursing home in the United States is projected to cost somewhere in the neighborhood of $158,000. A recent Gallup poll found that a majority of Americans are willing to pay for long-term care insurance either through premiums or taxes, suggesting that there is a growing support for either public or private initiatives to provide for long-term care insurance.

Conversion of life insurance is an interesting way to provide long-term care coverage, but it may not be the appropriate choice for everyone. It involves risk, which each employee must fully understand before deciding to convert. If we decide to pursue this option, I believe it would be essential for the Federal Government to provide employees with detailed explanations as to the pros and cons of converting their life insurance.

This is, I think, a most appropriate time to begin the discussion of a design of a long-term care benefit for Federal workers for several reasons:

Currently, the U.S. Bipartisan Commission on Comprehensive Health Care, known as the Pepper Commission, is working on various options to address our Nation's long-term care needs. The Commission will make their legislative recommendations to Congress on March 1, 1990. Options in the financing of long-term care range from the Federal Government assuming the complete responsibility to leaving the responsibility solely to the private sector. It is likely the solution will lie somewhere in between and will require the Government to work closely with the private sector.

I am a member of the Pepper Commission and the Chairman of the Senate Aging Committee. Recently, I held a field hearing on the issue of long-term care in rural America. I might say to my good friend and colleague, Senator Stevens, that we had over 1,400 people who came to that hearing in Little Rock, Arkansas.

The purpose was to give the Commission access to information which demonstrates that any effective policy will require different and creative approaches for delivering long-term care to the elderly in rural areas. Hopefully, we will also relay our discussions this morning to the other members of the Pepper Commission so that they can have this information for their future deliberations.

This hearing is very important because the Congress will soon be studying proposals to reform the ailing Federal Employees Health Benefit Program (FEHBP). Senator Ted Stevens, the ranking member of the Subcommittee, has announced that he will introduce a bill soon. Also, OPM is required by law to submit a proposal to the Congress in February 1990. So you can see that things are going to happen. Many questions will have to be answered before we can design a replacement for FEHBP.

Should a long-term care benefit be offered under a newly revised Federal Employees Health Benefits Program?

Should a long-term care benefit, in addition to short-term disability insurance, be included in a flexible benefits plan for Federal employees?

Further, if FEGLI becomes a component of a flex plan, should life insurance conversion be used to help stretch employee benefit dollars?

Would it be better for the Federal Government to self-insure and offer Federal employees the benefit rather than adding a long-term option to FEGLI?

S. 38 raises some consumer questions which, hopefully, will be addressed today, such as: What the long-term benefit levels will be; whether the inflation adjustment is adequate; and whether the contributions should be forfeited upon withdrawing from the plan.

These are not easy questions to answer. We are pleased to have Senator Wilson and others today so we can begin to address these issues.

We are going to call on Senator Wilson in a moment, but first, let me yield to my friend, Senator Ted Stevens, the ranking minority member of the Subcommittee.

OPENING STATEMENT OF SENATOR STEVENS

Senator **Stevens**. Mr. Chairman, I thank you for your comments, particularly about the bill that I am working on. I will say to you again that when I get to the point where I have got something I can defend, I will discuss it with you and we can make it a bipartisan bill, I hope.

But, in view of the time, I would like to put my statement in the record and yield to our distinguished ranking member of the full Committee, Senator Roth.

[Senator Stevens' prepared statement follows:]

Prepared Statement of Senator Ted Stevens

Thank you, Mr. Chairman. I appreciate your holding this hearing on S. 38, a bill to make long term care insurance available to civilian Federal employees. As you are aware, I am an original cosponsor of S. 38 with Senator Wilson.

S. 38 is the direct result of a proposal developed by the Office of Personnel Management and presented to the Senate in 1987 by then-Director Constance Horner. That first basic proposal was the result of the Reagan Administration's recognition of the need to protect Federal employees from expenses associated with extended periods of illness. S. 38 has improved upon that original concept in part by providing a clearer definition of "long term care insurance" which outlines the coverage to be provided by such insurance. S. 38 also requires the carrier to reinsure portions of the total liability.

The concept is really quite simple. The Federal Government will negotiate a group rate for long term care insurance. This will result in premiums of 20–30% less than individual policies currently cost. Federal employees who are 50 years of age or older will be eligible to participate in this option.

There are two financing mechanisms. First, a Federal employee may decide that he or she no longer needs group life insurance. If the employee is over 50 years of age, has participated in the Federal Employees' Group Life Insurance (FEGLI) program for at least 10 years, and decides to instead participate in a long term care option, the face value of the life insurance policy can be converted to long term care coverage. The Federal Government will continue to pay the amount previously paid for life insurance and the employee would pay the difference. A combination of the value of the life insurance and the continued government contribution will result in lower premiums for the employee. However, the employee would still retain at least $2,000 in life insurance coverage.

Second, if a Federal employee feels he or she still needs life insurance in addition to long term care coverage, it is possible to have both. In that case, the employee would pay the full premium for the long term care policy. Remember, though, that the premium would be based upon a group rate and as a result would cost significantly less than an individual policy currently available in the private sector.

S. 38 allows Federal employees to choose the benefits offered through the Federal Government which best fit their needs. No one would be forced to choose the long term care option, just as no one is now required to participate in the group life insurance program. No one would be required to give up one option in order to take advantage of another. Rather, we would be providing Federal employees with the opportunity to tailor their benefits package to better address their individual needs.

Mr. Chairman, I look forward to hearing from our witnesses today.

Senator **Pryor**. Excuse me, I did not see Senator Roth. Senator Roth, welcome.

OPENING STATEMENT OF SENATOR ROTH

Senator **Roth**. Thank you.

Let me congratulate both of you for holding these hearings and I particularly want to express my appreciation to you, Senator

Wilson, for your leadership in a proposal that I think is very innovative and could mark the direction that we need to go, not only with the Federal Government, but it might help to pave the way with respect to the private sector as well.

I think it goes without saying that we are increasingly becoming a country of senior citizens. In 1940, the elderly represented 6.7 percent of the total American population. By the year 2000, 12.9 percent will be elderly.

There is no question that the problem of long-term nursing care is a priority matter with these senior citizens.

And, Mr. Chairman, rather than read my full statement at this time, I would ask that it be included in the record.

Senator PRYOR. Senator Roth's statement will be printed in full in the record.

[Senator Roth's prepared statement follows:]

PREPARED STATEMENT OF SENATOR ROTH

Mr. Chairman, as an original cosponsor of the long-term care proposal being considered now, I am pleased to see the committee is reviewing this important matter. Long-term care is in the forefront of Senior citizens' priorities. In 1940, the elderly represented 6.7 percent of the total American population, 11.1 percent was elderly in 1980—by the year 2000, 12.9 percent of the population will be elderly. But, the actual number of Senior citizens is expected to quadruple from 1940 to 2000. Of these elderly individuals, the population of those over 75 and over 85 will grow at a faster rate than the overall elderly population. This phenomenon of the greying of America emphasizes the need for innovative solutions to providing care for Seniors. I believe S. 38 is a good step towards improving access to long-term care coverage for elderly Americans.

Clearly, the cost of nursing home care over an extended period of time can be truly devastating financially for the individual and or family faced with the expense. Similarly, if the government were to provide 100% coverage for such costs, it would place too much of a burden on the Federal budget at a time when we already face severe financial problems at the federal level. There obviously is no "quick-fix" to the problem, however, we can get closer to the solution by looking towards innovative options to increase access to long-term care coverage.

This proposal will enable Federal employees to change their type of insurance as their needs change. This bill would create a long-term care insurance option for those Federal employees over 50 who have enrolled in the Federal life insurance plan for at least 10 years. Essentially, a qualified Federal employee could "roll" his or her life insurance over to nursing home or home health care coverage. When this legislation becomes effective, 665,000 Federal employees would immediately be eligible—even a small percent choose to enroll, this would drastically increase the number of Americans now covered by long-term care. This could serve as an important example for the development of long-term care for elderly nationally.

What I find particularly appealing about S. 38 is that the long-term care coverage is totally voluntary for Federal employees and cost neutral from the government's standpoint. Under the plan, Federal employees who are age 50 or older and have contributed to the Federal Employees' Group Life Insurance for more than 10 years could opt to acquire long-term care coverage in exchange for a reduction in their life insurance.

As the demographics are changing and the demand for long-term care is needed, the government and the private sector need to act rationally in approaching the issue. By implementing a plan that greatly increases the number of long-term care enrolled persons, we would be armed with an example of valuable experience that could guide us in truly solving the problem of long-term care. I look forward to learning from today's testimony.

Senator PRYOR. Senator Wilson, we welcome you this morning.

TESTIMONY OF HON. PETE WILSON, U.S. SENATOR FROM THE STATE OF CALIFORNIA [1]

Senator Wilson. Thank you very much, Mr. Chairman.

Mr. Chairman, Senator Stevens, Senator Roth, I am delighted to have this opportunity.

The old lament of our departed sage Clair Booth Luce comes to mind when we think of the fact that American medicine has achieved a significant increase in the life span of average Americans.

Mrs. Luce once made the comment that, "No good deed goes unpunished." Well, the good-deed of American medicine has been to prolong life and to present America with an entirely new set of geriatric concerns.

A source of anxiety and mounting concern for Americans as they grow older is that they will be unable to find or unable to afford the kind of long-term health care that is increasingly an expectation for them as they live longer and face their geriatric years.

We have seen some effort to consider the problem of long-term care, culminating in the establishment of the Pepper Commission that is currently in progress.

Before the Pepper Commission began its labors, the gentleman for which it is named had made an effort through legislation to address the elderly's concerns and needs regarding long-term care.

In the recent debates surrounding the Medicare Catastrophic Coverage Act, the Nation's seniors made one point perfectly clear to us, and that is that the expense of long-term care is the true medical catastrophe which most of them fear.

However, the defeat of the Pepper bill in the last Congress and inaction on numerous taxpayers supported long-term care proposals pending in this session of Congress confirmed Congressional reservations about committing substantial Federal funds to enact what many would call a comprehensive public long-term care program.

In the near term at least, the death knell for proposals to address the problem of long-term care through expanded Federal benefits seems to have been struck.

Nonetheless, the reality of the Nation's long-term care problem remains compelling for all of the reasons to which you have previously alluded. Representing 13 percent of the Nation's population today Americans over age 65 will comprise nearly 20 percent of the population in the year 2030. Research suggests that roughly 40 percent of the people age 65 and over risk entering a nursing home. Those at greatest risk of needing long-term care are individuals over 85, the fastest growing age group in the United States.

With Medicare paying less than 2 percent of nursing home expenses and with private insurance covering only 1 percent, the enormous financial burden of long-term care imposes is borne by the elderly and their families.

In the aftermath of the Catastrophic Coverage debate and in the context of fiscal constraints and demographic realities, Congress needs to find viable solutions to the problem of long-term care without imposing unrealistic expenditures upon those who pay for coverage or upon the Federal Government.

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[1] See p. 68 for Senator Wilson's prepared statement.

This morning's hearing provides us with an opportunity to examine an innovative and fiscally neutral proposal to make affordable, quality long-term care coverage available to Federal employees in a manner that can be replicated in the private sector in the way for which Senator Roth just expressed hope. It is fitting and proper that the Federal Government, the Nation's largest employer, take the lead in offering its employees this important new benefit, which is currently being provided by a few employers in the private sector, as the Chairman observed.

Unfortunately, the number of employers providing long-term care as a benefit is few and appears confined to the larger employers, although the need clearly exists for the employees of small business, the employer of some 85 percent of the American work force.

The focus of our attention this morning is on legislation S. 38, which I have sponsored and which I am pleased to say enjoys the co-sponsorship of some 55 senators.

This legislation would require the Federal Government to expand benefit options available to Federal employees to include long-term care insurance. It is based upon an innovative and cost-effective proposal. I wish I could say the idea sprung from my brain. It did not. It was rather the eager proponent of the proposal when I became aware of it. Credit goes to the Office of Personnel Management. We have the present distinguished Director of OPM, Constance Newman, with us this morning.

Constance seems to be a virtue, not—I'm sorry, I could not resist that, Mr. Chairman. [Laughter.]

You will understand that I refer not only to Constance Newman, but also to her predecessor, Constance Horner, when she was serving at OPM and helped very substantially in the development of this legislation.

The bill that is before us is a prototype. It would offer long-term care insurance for Federal employees and their spouses, such that soon thereafter I would hope that it would be duplicated in the private sector and in public sector efforts by State and local governments all across the land.

As I have said, some 55 senators have joined me in cosponsoring S. 38. I believe that the bill has won such broad bipartisan support because the measure demonstrates how the public and private sectors can work together to address the long-term care problem.

Simply put, the legislation before us gives Federal employees two basic long-term care options, and I underscore "options" because Federal employees are not compelled, not mandated to do anything. Rather, Federal employees have two options under my legislation that they do not have now.

First, the legislation creates long-term care insurance as a new optional benefit for Federal employees over the age of 50. Through the pooling of employees, the measure gives enrollees access to long-term care insurance at lower group rates, lower than they could purchase with individual purchases in the open market.

Second, it gives employees over age 50 with a minimum of 10 years participation in the Federal Life Insurance Program, FEGLI, the option to convert a portion of their life insurance to long-term care coverage. Under the life insurance conversion option, the Federal Government and the employee would redirect contributions normally made towards the employee's life insurance. These redirected contributions, coupled with the reserves in the employee's insurance fund, would defray the employee's long-term care premium by roughly $20 a month. This $20 monthly contribution is significant compared to existing long-term care premiums which range from $20 to $50 a month for 50 year olds under existing group plans.

Notably, neither option requires any additional expense to the Federal Government. ~~Rather,~~ the Federal Government as the employer would simply redirect its present contribution.

In regard to enrollment requirements, I would note that the age of 50 was selected for two very straightforward reasons. First, it is a medically neutral point in one's life, thereby reducing the problem of adverse selection in the long-term care program. Second, it is the time in one's life at which personal financial planning needs may significantly change.

However, in light of the interest that has been demonstrated in the long-term care policies by individuals under age 50 in the private sector and in the public, I believe S. 38 enrollment criteria should be broadened to give the employees under age 50 the option to participate in the long-term care benefit at group rates. The conversion option, however, would remain open to employees over age 50 with 10 years FEGLI participation.

The innovative financing method embodied in this legislation—conversion of life insurance to long-term care coverage—is based on a very simple idea. When a young bread winner selects among employer-offered benefit options, he or she most likely will buy life insurance in order to provide security to a young family. But, once those children whom he or she seek to protect are grown and independent, that employee begins to have new concerns, new worries about his or her own independence in old age. They are concerned, quite properly, with that expectation of nursing home care and about becoming a burden to the very children whom they have sought to protect through life insurance coverage early in their careers.

The proposal recognizes that an individual's needs and priorities change with age. As one ages, the need for a large amount of life insurance coverage decreases and the need for protection from the cost associated with long-term care increases. S. 38 gives Federal employees the flexibility to respond to changing life circumstances.

Much of the attention has been focused on the life insurance conversion options offered by S. 38. While this is not surprising, since conversion represents an innovative means of financing long-term care coverage, the attention on the conversion option has left the mistaken impression that Federal employees must exchange their life insurance for long-term care coverage.

Two points on this matter need to be made. First, conversion is an option, an option to be elected by the employee. It is not a mandate. Second, the exercise of the conversion option does not in any way affect the FEGLI program and FEGLI basic premiums. This is because the amount transferred from FEGLI to long-term care equals the value of the basic FEGLI forfeited in future years.

In short, Mr. Chairman, this legislation offers Federal employee options and opportunities, not obligations. Nor does it prejudice those that make the decision not to exercise the new option.

S. 38 provides an important new benefit option and an innovative way to help finance it. Further, my bill expedites the process of making long-term care coverage available to a broad spectrum of Americans. It should not be available only to the wealthy.

How, one might ask, can a proposal targeting Federal employees help the general public? Quite simply, a pool of 3.1 million active Federal workers offers a tempting incentive for insurance carriers to develop new and competitive long-term care insurance products. Roughly 690,000 Federal employees, plus their spouses, would be immediately eligible for the long-term care benefit.

By taking the need to create a market in this emerging area, the Federal Government can create a long-term care "domino effect". More insurance carriers will enter the market to compete for the OPM contract. In order to win this competition, insurers will have to offer greatly improved insurance packages, both in terms of price and quality.

As long-term care products improve, State and local governments and large private sector employers, the University of California, as an example, or General Motors or AT&T, will be encouraged to provide a new or convertible long-term care benefit similar to OPM's to their employees.

With respect to those in small businesses, we must pursue means of ensuring access to long-term care insurance for small business employees, perhaps in the same way that group life products have been made available through creating some sort of consortion of clientele.

In short, the OPM program can serve as a model to be replicated throughout the public and private sectors throughout America, thereby making long-term care insurance available to the middle-class and to those who work and taking it out of the realm of a benefit available only to the wealthy.

Mr. Chairman, it is increasingly apparent that meaningful solutions to the problem of financing long-term care cannot be achieved without substantial participation by the private sector. Currently, however, Congress does not have a concrete understanding of how far the private sector can go to meet future long-term care needs.

While more than 1.3 million Americans now have long-term care insurance, a number of factors have clouded the future of the long-term care market. The tax treatment of long-term care products and of innovative financing mechanisms such as conversion of life insurance to long-term care coverage represents such a cloud. In this regard, clarification of current tax law with respect to the tax treatment of long-term care policies would be not just helpful but really essential if we are to maximize the stimulus both to the development and purchase of long-term care products.

In particular, I believe that conversion of life insurance benefits to long-term care health insurance should be treated as a tax free exchange.

In view of the significance of these tax issues, I am troubled by the Department of Treasury's delay in submitting a congressionally mandated study of Federal tax policies to promote private financing of long-term care insurance. This study was required by the Medicare Catastrophic Coverage Act and is to identify alternative methods of creating tax incentives to encourage individuals to purchase long-term care coverage. Despite a November 1988 deadline, the Treasury Department has yet to submit this study to Congress.

What has been heard from Treasury and the Council of Economic Advisors is a list of unresolved tax issues related to long-term care products and financing mechanisms. Mr. Chairman, if Treasury is not willing or able to make recommendations for appropriate changes in Federal tax law to promote long-term care, then I suggest that Congress should and must resolve the matter.

We should not be required to wait an inordinate period of time when the delay is causing a delay of the extension of long-term care benefits to Americans who need them.

Clearly, the private sector long-term care insurance solution will not reach everyone in need of coverage. This legislation, S. 38, does not profess to be a total solution.

The public sector's role, however, remains ill-defined. While Congress and the Pepper Commission labor over the appropriate public sector response to the long-term care problem, we can and must move forward with proposals such as S. 38 to promote the private sector's role because, in short, Mr. Chairman, before we know that it is an appropriate thing to do in terms of the public burden, we really need to know what prudent Americans exercising options not now available can do to provide for their own long-term care.

The demise of the Pepper proposal in the House, I believe, was clouded by the fact that there were jurisdictional considerations involved. Many claim that two powerful chairmen in the House had been offended and that for that reason the merits were not clearly addressed.

It seems to me just as probable that there were real doubts as to the wisdom of undertaking the enormous expense of a totally public comprehensive solution to the long-term care problem before determining how the burden might be reduced by private citizens making provision for themselves using private insurance production.

Clearly, the private sector long-term solution is not the answer for everyone, but while Congress and the Pepper Commission labor over the appropriate public sector response, we really can and must move forward to define and to make possible the private sector's role.

Mr. Chairman, all of us here today know the urgency of finding ways to make affordable, quality long-term care coverage available to the increasing numbers of Americans who need it. As our population ages and the need for long-term care increases, the imperative to find innovative public and private solutions becomes greater.

My legislation does not profess to be a panacea to the Nation's long-term care problem. It is not a solution to the problem of financing long-term care benefits. S. 38 is, however, an innovative and cost-effective means of providing Federal employees with an important new long-term care benefit option and expanding long-term care insurance products and increasing their availability to the general public.

Each day countless Americans enter nursing homes terrified that they will quickly drain their savings, that they will become Medicaid eligible. They undertake really artificial steps in order to safeguard their spouses, even going so far as to sever a marriage of many years when there is nothing basically to trouble that relationship. They do so to safeguard the savings that they wish to remain in the hands of their spouse.

We really should not compel people to take steps of that kind and we cannot afford unnecessary delays in finding a solution to the true medical catastrophe that will confront an increasing number of Americans, one that confronts so many of them today, the need for affordable long-term health care.

Mr. Chairman and members of the Committee, I thank you and I am grateful that we have had the opportunity to bring this legislation before you.

I will be happy to entertain whatever questions you have. There are several panels waiting and I am mindful of that and eager to participate in hearing from them and questioning them myself.

Senator PRYOR. Senator Wilson, thank you for your statement and also for your initiative. Senator Stevens, would you like to ask any questions.

Senator STEVENS. I have no questions.

Senator PRYOR. Senator Roth.

Senator ROTH. Just one question, Senator Wilson. What kind of coverage do you expect this proposal would give the Federal employee? Do you have any idea what it would mean in actual benefits?

Senator WILSON. Yes, sir. What we are hoping it will mean is that in the case of the Federal employee who is a member of FEGLI, age 50, with 10 years participation, who elects to exercise the option to convert, he or she could access long-term care insurance for only about $11 per pay period. The employer, the Federal Government, would make no additional contribution, but simply redirect its present FEGLI contribution to the long-term care benefit. OPM anticipates that different kinds of coverage will be offered. A minimum benefit package would include coverage for up to 3 years, nursing home care coverage that in today's market would likely cost a minimum of $75,000.

Senator ROTH. Well, it is a very significant proposal and time does not permit to ask more questions, but I again congratulate you for your leadership in this area.

Senator WILSON. Thank you, sir.

Senator PRYOR. Senator Wilson, certainly as a member of this Subcommittee, we now welcome you to the dais.

Senator WILSON. Thank you very much, Mr. Chairman.

Senator PRYOR. Our next witness is the Honorable Constance Berry Newman, Director of the Office of Personnel Management. Ms. Newman, we welcome you.

Now I am going to see if this will be agreeable to my colleagues. We are going to allow Ms. Newman 10 minutes for her statement and then all succeeding witnesses are going to have the 5-minute rule.

Ms. Newman, we look forward to your statement. Thank you for being with us this morning.

Ms. **Newman**. Thank you, Mr. Chairman.

Senator **Wilson**. Chairman, if she is doing extremely well, I might consider to extend it but——

Senator **Pryor**. Well, she can do well in 10 minutes. You watch. I have seen her in action before. [Laughter.]

Senator **Wilson**. I am aware of that.

Senator **Pryor**. Thank you.

Ms. **Newman**. As a matter of fact, Mr. Chairman, I am planning to skip part of the testimony and insert it in the record.

Senator **Pryor**. We will. By the way, just so all of our witnesses will know, we are anticipating before noon maybe one or even two votes on the Legislative Appropriations bill. We do have a live quorum at 1:45 when we will begin the second day of the impeachment proceedings of Judge Nixon. I just want our witnesses to understand our time situation.

Thank you, Ms. Newman. You may proceed.

TESTIMONY OF CONSTANCE BERRY NEWMAN, DIRECTOR, OFFICE OF PERSONNEL MANAGEMENT[1]

Ms. **Newman**. Mr. Chairman and members of the Subcommittee, I am very pleased to join you today to discuss S. 38, the Federal Employees Long-Term Care Insurance Act of 1989.

This bill contemplates making a new employee benefit plan available to the Federal workforce on a completely voluntary, insured basis which would involve no new Federal funding.

The new program would help Federal employees finance long-term care expenses for either extended periods of nursing home confinement, or similar home health services.

The expenses may be required as chronic, debilitating illnesses, such as often accompany advanced age, make it impossible to carry on essential daily living activities independently.

S. 38 would amend the Federal Employees' Group Life Insurance Law to provide basic authority for OPM to enter into contracts with the insurance industry for purposes of making long-term care coverage available to Federal employees on a group basis.

Moreover, the bill would offer group life insurance participants an opportunity, as they approach their mature years and family responsibilities decline, to trade in a portion of the face value of their basic life insurance coverage to permit purchase of long-term care insurance at a reduced premium.

The amended life insurance law would set forth criteria for enrollee and insurer participation in the long-term care program, a definition establishing the parameters of possible long-term care insurance benefits and financing methods.

The law would leave broad discretion for OPM to develop the specific details of program benefits, premium charges, and administration through regulation and negotiation with participating insurers.

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[1] See p. 80 for Ms. Newman's prepared statement.

This flexibility is especially desirable given the relatively short span of experience with long-term care insurance products and the likelihood that there will be ongoing evolution in the future, making program revision and adjustment desirable.

Mr. Chairman, in order to save time, I would like to skip down to page 5 of the testimony to share with you our observations about——

Senator PRYOR. Your full statement will be placed in the record.

Ms. NEWMAN. Thank you.

There are a number of observations that we would like to make about this approach. First of all, by building on an existing program, we would avoid some of the costs and delays associated with creating a new benefit program.

Secondly, an employee's need for life insurance diminishes with age as his or her need for long-term care protection increases, suggesting that a trade-off may be of interest to many employees.

Ninety percent of Federal employees participate in our life insurance program and 630,000 would be immediately eligible to convert basic group life insurance for long-term care insurance purposes under this proposal.

Advanced funding with people paying premium years before they expect to need the service would keep the cost of coverage within the reach of most Federal employees.

Even if an employee declines the life insurance conversion for purposes of receiving a moderate reduction in the long-term care premiums, the full group premium rates would be lower than the cost of an individual long-term care policy.

Although S. 38 contemplates using increases in the General Schedule pay scale as the basic index for adjusting the premium and benefit rates, some other index more closely related to changes in the cost of long-term care might be considered.

The proposal is fully consistent with the Administration's commitment to rely wherever feasible on existing private sector services and capabilities rather than to duplicate them in the Government.

The proposal needs to be evaluated, not only from the perspective of Federal employees, but also, from the broader perspective of whether it would serve as a useful model for addressing concerns over long-term care needs of society in general.

Treasury officials caution that the conversion of accumulated reserves for purchasing long-term care coverage, the ongoing Government contributions to long-term care premiums, and the long-term care benefits themselves may be taxable in whole or in part to an employee depending upon the individual's circumstances.

We all recognize that if the Government expects to successfully staff its various agencies in the coming decades, we must offer benefits competitive with those available in other segments of our economy.

As a responsible employer, we are also interested in ensuring that our employees have access to meaningful and effective benefit programs to assist them in establishing reasonable financial security.

To these ends, we are currently in the process of reviewing most major Federal employee benefit programs. Given the size of these programs and the complexity of the governing laws, however, any fundamental changes necessarily require a cautious deliberative approach.

I look forward to working in a cooperative relationship with Congress in this process. I thank you and I will be happy to respond to any questions.

Senator PRYOR. Ms. Newman, I just have one or two quick questions and then I am going to yield to Senators Stevens, Wilson, and Roth.

First, has OMB endorsed S. 38?

Ms. NEWMAN. The statement that I made today is an Administration position.

Senator PRYOR. Is an Administration——

Ms. NEWMAN. This statement that I made today is an Administration position.

Senator PRYOR. All right, but has OMB endorsed it?

Ms. NEWMAN. Well, we are in the position, Mr. Chairman, now where we are still considering the answers to some questions. If you note, the testimony shared observations.

When we move to a better comfort level with the answers to some of the questions, then I would be able to give you an answer to that.

Senator PRYOR. Now the Congress would give OPM a tremendous amount of discretion in these areas: to determine or define what long-term care means; determine benefit levels; select insurance companies; adjust premiums; and so forth and so on.

Should Congress be more specific giving more direction or less direction to OPM?

Ms. NEWMAN. Mr. Chairman, I am at this stage comfortable with the flexibility for this reason, I believe that we are moving into unchartered waters and to the extent that there can be an agreement that there would be a reporting back, an assessment, and a monitoring of what we do, it will be much easier to move to something that works if we are not tied down with specific language beyond what is here at present.

Senator PRYOR. Thank you.

Senator Stevens.

Senator STEVENS. You indicated in your statement a reference to the Treasury's worry about the possible tax impact of this bill. Have you got reports on that now?

Ms. NEWMAN. Do I have the Treasury Department's report on the taxation? No. This position that I have presented today does come from communications with Treasury and the——

Senator STEVENS. I have been reading their comments and I turned up my ears when you read that about their question, but——

Ms. NEWMAN. They caution that the conversion could result in some parts of it being taxed and it would depend upon the individual circumstances.

Senator STEVENS. Well, I think it will depend on our bill. I hope you do not get up against the wall on that one because I do not see any reason for us to give a Government employee the option to make a conversion when the benefit they have now is not taxable. To turn that option into a taxable benefit would be counterproductive.

So I hope that you and others who are studying this will not take that question seriously. [Laughter.]

Ms. NEWMAN. Well, I have to take the question seriously.

Senator STEVENS. Well, then ask the person if they ever heard of an Act of Congress. It seems to me that it would be foolish for us to offer an option to a Government employee that would give them a taxable benefit when if they did not exercise the option they would have no such taxable benefit.

I just hope you do not get hung up on that one.

Thank you, Mr. Chairman.

Senator PRYOR. Senator Wilson.

Senator WILSON. Thank you, Mr. Chairman.

I might say to my colleague, Senator Stevens, I doubt that the potential problem you raise is so great that OPM will get hung up on it. I think other agencies in the Federal Government might be tempted to, but your point is difficult to dispute. There is no point in conferring a benefit that you can be guaranteed will not be used if it results in a taxable event.

Let me just ask a couple questions of Ms. Newman. I think you would probably agree that a large part of the success of this proposal will rest with effective outreach to and education of Federal employees about the value and importance of this new option, this new optional benefit. However, some in the past have criticized OPM's efforts as failing to effectively educate employees about new or modified benefits.

What specific efforts will OPM undertake to effectively market the long-term care benefit?

Ms. NEWMAN. Well, we would have to work on several levels. We would first need to be sure that the personnel specialists themselves understand the benefit. We would do that through written materials, through training sessions, through seminars. We would need to be sure that the employees would understand the benefits and I am not sure, Senator, that there were that many complaints, for example, about the way in which OPM disseminated information about the Federal Employee Retirement System. I have understood that there were many who believed that that process of informing people adequately got the word to everybody. We would continuously monitor employee response to the new program and any additional information that we would need to get out to the people about their benefits, we would do so. We have found video tapes to be more and more useful, along with Q&As on whatever new provisions are available.

Senator WILSON. All right. Thank you. I think the point is that there is a major effort that really has to be undertaken for this benefit to be made meaningful to employees.

Some have argued that the success of this kind of proposal would be dependent upon how OPM handles the authority granted by the legislation relating to carrier selection and benefit design.

Does OPM intend to decide for itself what minimum levels of coverage will be included in the plans and then to seek bids from the qualified carriers accordingly?

Ms. NEWMAN. Yes, it would be important for there to be minimum standards and a request-for-proposal would outline the minimum standards and, also, probably provide for enhancements, so that the carriers competing would address the issue of the minimum standards, but also would be able to compete in the way in which they enhance their proposals—either allowing trade ups or variable waiting periods, and so forth.

Senator WILSON. I am delighted with your answer because I think there does have to be some specification as to minimum benefits, but I would hope that the request-for-proposal would not be so restrictive as not to encourage competition, which I gather you agree is likely to occur and to bring about greater benefits and hopefully lesser costs.

Would you be interested in indicating, if you have some preliminary view, what range of services you would expect to be covered under the policies offered?

Ms. NEWMAN. I am really not—we would address the issues of the basic levels of care and the duration of care, but to be specific about the minimum standards for nursing home and home care, I am not comfortable with doing that at this time.

Senator WILSON. All right. Perhaps that is too comprehensive a question for this hearing. In any case, let me ask you whether or not in light of both the varying circumstances of Federal employees and the interest of younger employees in long-term care policies, would OPM consider an option to allow employees over age 40 to participate in the long-term care benefit group rates, reserving to those who are over 50 with 10 years FEGLI participation the right to convert their life insurance to long-term care benefits?

Ms. NEWMAN. I would think that that would be something worth looking at. I am comfortable, however, with the present proposal, which is that we would initially use the age—50 eligibility requirement and monitor that for a period of time—5 years—and then make some determination as to whether we would drop down.

We may not have to do that, but we would have to look at the——

Senator WILSON. You understand that I am talking about changing the age of eligibility not for the option to convert, just for the opportunity to participate in the long-term care program at the lower group rate.

Ms. NEWMAN. Yes, I understand that, but still, because we are moving into waters that are unchartered, I am not sure how much we would want to take on in administering those two groups initially.

Senator WILSON. One final question, Mr. Chairman.

The consideration or I should say the complaint, has been raised by some Federal employees that the conversion option, even if it is understood to be an option and not a mandate, is a trading of benefits. That it seems to me is a somewhat strange complaint to make because what they are really saying is that the employee who wishes to do so is going to trade life insurance coverage, which as your testimony has pointed out may change as a need, for the kind of health care coverage.

I think some people also have been concerned that if Senator Stevens and I are members of FEGLI and if I elect to convert FEGLI benefits to long-term care coverage and he remains in FEGLI, that somehow my election of that option diminishes his rights remaining under the life insurance coverage.

Ms. NEWMAN. I do not see how that would be the case because——

Senator WILSON. Well, I do not either, but I wanted you to get that on the record. [Laughter.]

Ms. NEWMAN. Oh, okay.

Senator WILSON. I intend later to ask other panelists to address this issue from an actuarial point of view to document that conversion to long-term care insurance will not weaken FEGLI. It seems to that it in no way prejudices the rights or the entitlements of those who elect not to exercise the option and that I gather is your understanding as well.

Ms. NEWMAN. That is my understanding. I would be happy to go to the experts, but just on the face of it, I do not understand the fear.

Senator STEVENS. Will you yield?

Senator WILSON. Surely.

Senator STEVENS. I hope you do go to the experts. If the group is substantially reduced, the costs of the group are going to go up.

Senator WILSON. No, I think what you have with the Federal life insurance program is a group that is large enough so that conversion of some participants out of FEGLI and into long-term care will not undermine the FEGLI program. The reserves transferred from FEGLI to long-term care amount to FEGLI claims forfeited by those who cannot convert—it turns out to be a wash.

Ms. NEWMAN. It would be a wash.

Senator STEVENS. But as to the future rates, there would be a change.

Ms. NEWMAN. Yes, but right now we have 90 percent of all eligible employees—2.6 million—participating in the life insurance program and only 630,000 of these would be immediately eligible to exercise the conversion. So, even if everybody who is eligible moves out, it is not the lion's share of those covered under life insurance.

Senator WILSON. Mr. Chairman, rather than take more time with Ms. Newman, who has been a very good witness, I would ask that any other questions that I have might be for the record and submitted to her for the record.

Senator PRYOR. Thank you, Senator Wilson.

Ms. Newman, what is the timing on this proposal? Are we looking at the next several months, or the next 2 or 3 years? What are we looking at?

Ms. NEWMAN. I do not know the answer to that question because we are at this time having to have some of the tax questions answered. That is key. The other thing, Mr. Chairman, is we are, as you know, reviewing other benefit programs and I would think that the timing should be somewhat in sync.

As you have noted we are required by February to have a health benefits return proposal before Congress and we need to be tracking our consideration of these various proposals.

I would doubt from our point of view we would have anything before that time.

Senator WILSON. All right. Let me ask this question, if I might. Should Federal employees, while the Pepper Commission attempts to develop an overall approach to long-term health care benefits, should Federal employees proceed with the optional long-term care benefit, or wait for the Pepper Commission and look at a comprehensive global approach to the long-term care problem?

Ms. NEWMAN. Well, I think we would have to look, Mr. Chairman. I do not know how much we all know about this area. So I think we would have to look at what would be the cost and benefits of the Federal employees being pulled out as a separate group. And until I know that, I would not be in a position to advise as to whether or not that we ought to wait for the Pepper Commission. I can talk to some people to see if they can answer better than I can at this time.

Senator PRYOR. I tell you what, Ms. Newman, I am not being facitious. We all know a little bit more in November of 1989 than we knew in November of 1988. We all know that a surtax is not very popular. So we start with that. We have learned at least that lesson, but the question is how do we pay for many of these benefits. The Pepper Commission, by the way, is going to be ultimately struggling with that question.

Ms. Newman, I would like to ask you a question while I have you here. It is not specifically related to Senator Wilson's bill, S. 38, but to news articles in the past day or two regarding to sequestration. Now as we look at sequestration, it appears that it is going to be with us, that it, in fact, is a reality of life. It is my understanding, Senator Stevens may want to correct me, that we are looking in January to a 3.6 percent increase across-the-board that each agency will have to absorb. We are looking at perhaps a 5 percent decrease in overall Government spending by the agencies in administrative costs and personnel.

So are we looking at an 8.8 percent cut for the next several months, or perhaps the next year. Am I figuring this correctly?

Ms. NEWMAN. Is it 8.8 or 8.6?

Senator PRYOR. Well, I think the figure would be over 8 percent. Now all of this is going to have to be absorbed by the respective agencies. What does this do to an initiative like the one before us? What does it do as far as RIF's and furloughs? And by the way, what does it do to people who may want to make some long-range plans about entering a program such as Senator Wilson has outlined?

Ms. NEWMAN. Let me, Mr. Chairman, take the last part first and then take the former. With regard to a program structured as S. 38 proposes, we are not expecting that there would be any great start up costs. There would be costs for educating people about the program's provisions, but there really should not be—this should not be a very expensive program to initiate.

Across-the-board, as a Government, we are going to have to make tough decisions about our priorities and what it is that we are able to do with reduced resources. We should make those determinations, not by making every program thin, which in a way is often easier for people to do, but rather, by deciding what are the most important things that we have to do.

It will depend upon the status of the various programs, whether they should be subject to a spending freeze or to a reduction-in-force, that is, a RIF, or whether the necessary savings can just take place by attrition and some feeding back in of resources later on. We cannot say across-the-board whether or not the budgetary cuts should be taken care of by RIF's.

Senator **Pryor**. Is each agency and function of Government going to be able to make those decisions on their own, or are you getting inquiries right now?

Ms. **Newman**. This is a question for me and for Dick Darman. We would be working together on the ways in which the cuts would be taken because not all of the cuts would be taken in personnel. I would not expect that would be the case. There are other ways in which cuts might be taken. For example, in the Office of Personnel Management, we might be asking ourselves the question: Are we going to spend funds budgeted for the development of additional computer capability, or is that one place in which we might take a cut?

So, budgetary cutbacks will not affect all of personnel management, and, you understand, there will be a great deal of communication with OMB on this issue.

To the extent that we can leave it in the hands of managers to decide the best way of accomplishing their goals and objectives, I think the better off we all are.

Senator **Pryor**. Any further questions for Ms. Newman?

Senator **Stevens**. Well, I think it would be good if we knew how many people would be affected by sequestration. Of course, we still have the alternative of achieving a reconciliation bill similar to the one passed by the Senate. If we could get that, I assume that sequestration would not go into effect, but I do think we ought to know when the time comes, if it does, that we face the question of whether sequestration will stay in effect and what impact it is going to have on the civilian workforce.

We had a statement from the Department of Defense as to how many uniformed personnel would be affected by sequestration in the Department of Defense, but not at civilian side, I might add.

Senator **Pryor**. Gwendolyn King, the Administrator of Social Security, only 2 days ago stated to me that although the Social Security benefits are beyond the scope of Gramm-Rudman, some $300 million in administrative costs will be knocked out. Now we are talking about some pretty vital services to a lot of people. I hope that we in this Subcommittee can stay in very close contact as you implement sequestration, because I think it is here with us and there are going to be some very major decisions to be made.

Senator **Stevens**. Chairman, I regret that Senator Humphrey's amendment is pending. That quorum call is familiar. I must leave. I thank you.

Senator **Pryor**. All right, sir. Well, I will do my best to keep Senator Wilson tied up in this meeting so he cannot offer one of those franking amendments on the floor after a while. [Laughter.]

Thank you, Senator Stevens.

I know that Senator Wilson has a lot of questions for the coming panel. So, Ms. Newman, we thank you for being here with us today, and we are going to excuse you now.

We will call our panel, Mr. Vince Sombrotto, the Chairman of the FAIR Coalition, and Mr. Steve Morrissey, the President of the National Association of Retired Federal Employees. These gentlemen are no strangers to the Subcommittee.

We look forward to your statement. We will have the 5-minute rule. Mr. Sombrotto, please go first. I believe that you have another appointment that you have to make and we are going to try to accommodate you.

TESTIMONY VINCENT R. SOMBROTTO, CHAIRMAN, THE FAIR COALITION[1]

Mr. SOMBROTTO. Thank you very much, Mr. Chairman.

My name is Vince Sombrotto. I am Chairman of the Fund for Assuring an Independent Retirement, a 32 member organization which represents over 6 million active and retired Federal, postal and public employees.

The FAIR organization strongly supports the concept of adequate long-term care (LTC) insurance for our members. The personal and financial crisis created when an individual requires nursing home or health care services could be alleviated through such insurance.

Many of our members will need these services eventually and we look forward to working with you to create such a program.

Currently, FAIR is working with the Pepper Commission as it develops LTC goals for all Americans. In addition, we are working with this Subcommittee, as well as the House Post Office and Civil Service Committee, to reform the Federal Employee Health Benefits Program. Conceivably, such a reform could incorporate LTC needs into an overall package.

While we all agree as to the need for long-term care, I must caution that providing LTC must be done carefully and properly.

We have outlined the following tenets for the appropriate establishment of LTC insurance:

First, adequate inflation protection: S. 38 provides automatic adjustment, but they are linked to projected salary increases for Federal employees.

Mr. Chairman, we are painfully aware of the decline in Federal pay, which has failed to keep pace with the Consumer Price Index. In fact, the President's pay agent currently estimates that Federal pay is 28.6 percent behind comparable private sector wages. Unless the Administration and Congress corrects this pay crisis, any provision which indexes adjustments to Federal pay guarantees failure for the new benefit program.

Second, affordable premiums: Many Federal employees have suffered from dramatic increases in premiums in the Federal Employees Health Benefits Program. Such increases have vastly outstripped pay raises in each of the last 3 years.

According to the Health Insurance Association of America, the average age of individuals purchasing LTC insurance is 40. Clearly, there is a growing interest in LTC at ages younger than 50.

As there is no apparent reason for denying younger employees the right to participate, we recommend its inclusion in the plan.

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[1] See p. 101 for Mr. Sombrotto's prepared statement.

Third, portability; With the development of FERS, Congress recognized the growing trend towards benefit portability. An employee's ability to take benefits to private employment would make a program much more attractive, which is the key to establishing a sufficient pool of participants to make the benefit meaningful.

Fourth, appropriate level of benefits: There is no incentive to invest in LTC insurance unless the promised benefits are adequate and appropriate to the value of the premiums paid. We find it difficult to comment on this issue in any detail since S. 38 does not specify a benefit package.

Fifth, coverage of family members: S. 38 does not appear to provide coverage for the family members other than spouses. FAIR believes that such coverage is an essential component to any LTC program.

In that regard, the bill does not provide for current retirees. Current Federal and postal annuitants, like the rest of the population, need affordable LTC and we urge that any LTC program enacted would include them.

Sixth, appropriate care facilities: The most generous LTC insurance policy is of no value if the facilities are understaffed, unsanitary, or structurally unsound. The Pepper Commission is currently exploring methods to alleviate this problem. FAIR will closely monitor the Commission as it progresses on this and other important factors of LTC.

Seventh, education: Employees must be permitted to make educated decisions regarding any new benefits package, especially one such as this which can assume extraordinary importance.

The experience in disseminating information for the Federal Employee Retirement System, FERS, program is instructive. As you may recall, original projections for transfer from the Civil Service Retirement System to FERS were approximately 40 percent. Only 2 or 3 percent actually made the switch. There are two basic problems.

Employees are by and large skeptical of the Office of Personnel Management's commitment to providing them with a sound benefit program; and, two, OPM's inability to communicate accurate information about FERS into the field.

S. 38 does not currently provide any education program for eligible participants.

Eighth, employee organization participation: No benefits system can succeed without the active participation of employees and the organizations which represent them.

FAIR believes strongly that an advisory council, perhaps similar to that which accompanies the FERS Thrift Board, should be established.

Mr. Chairman, we consider the previous eight tenets as fundamental to the establishment of a successful LTC insurance program. We do not think that S. 38 has adequately addressed them.

There is one point which the bill is very specific, the age 50 once in a lifetime conversion window. We have great concerns about this portion of S. 38 as well.

Choosing life and long-term care insurance is risky for any individual. Lack of insurance in either of these two important areas can be devastating, particularly when there are small children with no significant savings or benefits provided.

The prospect is even more dangerous for Federal employees as a group because of their relatively low compensation.

In closing, Mr. Chairman, employees' pay and benefits severely limit their options. Pay lags 28.6 percent behind the private sector. Federal Health Insurance lags $1,100 behind the private sector.

We cannot afford to establish a new benefit which perpetuates that gap. Also, we are in the midst of a FEHB reform and comprehensive long-term care hearings by the Pepper Commission, in which we have been talking to Senator Rockefeller on this issue.

It would be prudent to work in conjunction with those programs. For these and the reasons listed above, FAIR cannot support S. 38 as drafted. However, I must commend Senator Wilson for trying to come up with some proposal and we would be glad to work with him in establishing such a program.

Senator **Pryor**. Thank you, Mr. Sombrotto.

Mr. Morrissey.

TESTIMONY OF H.T. STEVE MORRISSEY, PRESIDENT, NATIONAL ASSOCIATION OF RETIRED FEDERAL EMPLOYEES,[1] ACCOMPANIED BY JUDITH PARK, LEGISLATIVE DIRECTOR

Mr. **Morrissey**. Mr. Chairman, I am Steve Morrissey, President of the National Association of Retired Federal Employees, NARFE, as we refer to it. On my immediate left is Ms. Judy Park, our Legislative Director.

NARFE appreciates Senator Wilson's interest in addressing Federal workers' need for long-term care protection. We welcome today's hearing on S. 38 as an initial step in exploring how we can best address this issue.

We agree the Federal Government should be taking a leadership role in setting systems and standards for long-term care legislation. And as the Nation's largest employer, it should act as a model in demonstrating how group programs can effectively and efficiently offer long-term care insurance coverage at a reasonable cost.

In that effort, today's retirees are undoubtedly the group most in need of long-term care services. However, S. 38 would exclude the majority of our members, that is current Federal retirees, from participation in the proposed program.

We see no need to exclude retirees and cannot support their exclusion. We suggest that perhaps a separate retiree option could be offered with different underwriting techniques to prevent adverse selection.

Aside from this concern, NARFE believes other issues must be addressed before we seriously consider using a life insurance conversion option as the vehicle for long-term medical or custodial care coverage.

Although daily reimbursement rates may be flexible, it is our understanding that the proposed program envisions paying benefits up to $20 per home care visit and $40 a day for nursing home confinement. Both of these amounts are slightly less than half of the current national average cost of such services.

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[1] See p. 112 for Mr. Morrissey's prepared statement.

We believe any proposed long-term care program must more closely reflect actual costs. By all accounts, the greatest danger facing long-term care policy holders is the lack of adequate inflation protection.

Although S. 38 provides automatic adjustments in both benefits and premiums, the adjustments are based on the adjustment in Federal GS pay rates.

We fear that if long-term care coverage is adjusted according to GS pay rates, then reimbursements will always fall far short of actual health care costs.

NARFE also recommends a broader enrollment period than proposed in S. 38. For many 50 year olds today, a one time choice between future long-term care coverage and current financial and family responsibilities would create a real dilemma.

Also, experience in the private sector shows that the average age of individuals purchasing group long-term care insurance is 40. Broader enrollment opportunities both before and after age 50 might then also positively affect the risk pool while benefitting a greater number of people.

Converting life insurance coverage to long-term care coverage is one way to address skyrocketing health care costs, but certainly other vehicles deserve further exploration. They include long-term care contingencies to retirement programs, riders for long-term care insurance to disability coverage policies, and tax incentives such as individual medical accounts and tax credits for long-term care premiums, as well as new sources of public revenues.

Currently, 1 percent of all private sector employers have implemented a long-term care insurance program with another 8 percent reportedly considering such programs for the near future. Several States also have initiated long-term care programs.

There is no question but that long-term care protection is an issue of primary concern to today's seniors and of increasing concern to younger workers.

We are all now fully familiar with the controversy evoked by last year's enactment of the Medicare Catastrophic Coverage Act, which required the payment of new health care dollars from millions of older Americans for benefits the majority already had while it ignored any substantial new coverage for long-term care.

One of the few non-controversial provisions of that law was the establishment of the Pepper Commission to study and make recommendations on Federal programs, policies, and financing needs to assure comprehensive long-term care services and to report its finding to Congress in just 4 more months.

NARFE believes that it would benefit all of us to await the findings of the Pepper Commission before we begin development of a long-term care program for the Government's own workers and retirees. By doing so, we can avail ourselves of its findings, including proposed new directions in existing national programs. Therefore, we avoid the problem of duplicating national program benefits in a specific benefit program.

Mr. Chairman, NARFE strongly supports the development of an adequate, affordable long-term care program for Federal workers and retirees.

We commend Senator Wilson for proposing a plan to make long-term care coverage available to the Federal workforce and we welcome discussion of this issue that his plan has initiated.

While we cannot support all of the specific provisions of his bill, we can assure you of our willingness to work with Senator Wilson, the staff, and the members of this Subcommittee, and other interested organizations to plan and develop an innovative group long-term care insurance program for the Federal Government which will serve as a model for other employers.

Thank you.

Senator PRYOR. Thank you, Mr. Morrissey.

Senator Wilson, could you ask some questions? I will return in about 3 minutes.

Senator WILSON [presiding]. Thank you, Mr. Chairman.

Let me make a comment first that goes to some of the points that have been raised by both Mr. Sombrotto and Mr. Morrissey.

The problem with regard to retirees, there are, as you point out, four States that now offer long-term care benefits to their employees, and, in some States to retirees.

Mr. Morrissey, your point, I think, was that you consider a needed addition to the bill to be coverage of retirees, understanding that retirees would be treated as a separate category.

Mr. MORRISSEY. It could be separate as a part of your overall plan.

Senator WILSON. Well, is it not true that where it has been offered to retirees they are treated as a separate category?

Ms. PARK. Yes, sir, it is.

Senator WILSON. One of the points that Mr. Sombrotto made was that there are several elements of concern to his constituency that are not specifically covered in S. 38. That is true. In fact, we have given a fairly broad grant of authority to OPM with the clear understanding that they would in its request for proposal respond to a number of the points that he has raised, such as long-term care benefit design.

Accordingly, OPM in its negotiations with carriers, in its request for proposal, could solicit coverage of retirees. I would think, however, that such coverage would be almost certain to involve a separate category and one in which the costs to the retirees would necessarily be higher than costs to the younger active force.

A further move raised regards inflation. Inflation protection concerns, in my view, are valid, I suspect, about almost any proposal. Notably, few existing policies offer any type of inflation protection through automatic indexing as part of a basic benefit package. Inflation protection through indexation is important, and my proposal includes such indexation. The concern you have raised is that the wagon or level of indexation to which we are hitching this is too small a wagon.

I am sympathetic to that concern. It seems to me that fundamentally, the problem involves the painful fact that health care costs have escalated beyond the Consumer Price Index. The real problem we need to face is one of escalating health care costs.

Mr. SOMBROTTO. If I may, Senator.

Senator WILSON. Yes.

Mr. SOMBROTTO. The wagon that you are hitching it to has no wheels. That is a problem. But in terms of providing coverage for retirees and making that a separate coverage, that construction obviously means that the premiums for those retirees who want to be covered for long-term care are going to be extremely high. In fact, it may be so high that it is unaffordable to them.

You have got this situation where retirees, particularly Federal and postal retirees, are not retired on annuities that are Riviera type annuities and their money has to be husbanded quite judiciously and when you offer—you are offering them really a Hobson's Choice because if the premiums are going to be that high, they are unaffordable to them. So there is no benefit.

The whole idea of group insurance, of course, is to have those that will not exercise—who do exercise the option for coverage, they may not need—there is not a need for the services will help support those that do need it.

So I think we ought to look very carefully at the question of retirees because we do not want to find ourselves in the situation where we reach a point, as you so properly pointed out in your testimony earlier, that the medical service industry in this country has presented us with a dilemma: as they find more and more ways to increase the life expectancy of the citizens, and we all applaud that and are very appreciative of it, at the same time there are corresponding problems that are created by that.

So we do not want to find ourselves in a position as you get to a certain age when no one seems to care about the problems that are created by longer life.

So I would not favor creating separate plans exclusively for retirees. I think there has got to be a way to have more of a group insurance philosophy.

Mr. MORRISSEY. I might add, Senator, that those Federal workers that would be covered under this plan will themselves become retirees. What happens then?

Senator WILSON. Quite simply, those who enrolled while in the Federal workforce, would continue to enjoy long-term care protections after retirement.

Let me just ask you this. You both have made reference to the fact that the Pepper Commission is considering approaches to the problem of long-term care. What will your response be to your constituents if the Pepper Commission fails to recommend some kind of a universal public long-term care insurance program?

Mr. MORRISSEY. To our constituents or to those that we are working with to come up with an affordable and an acceptable long-term plan?

Mr. SOMBROTTO. Well, to our constituency, to answer the question, we would be very disappointed because we think there is a definite need for this kind of legislation. We would be very disappointed if the Pepper Commission did not make recommendations along those lines.

Mr. MORRISSEY. I know what our constituents are saying now in NARFE. The greater need in this country in the health area is long-term care custodial home care and home care and they have already in letter, telephone, and in discussions with us said they are willing to help pay for that coverage.

Senator WILSON. The other point that I would raise was addressed in your testimony, Mr. Sombrotto. You spoke of the need for an education program, an issue which I raised earlier with Ms. Newman.

Another issue involves portability, an issue which I anticipate OPM will address in its request for proposal. I consider this one of the minimum requirements to be included in OPM's RFP to insurance carriers long-term care.

Finally, with respect to benefit design, I would only repeat that I think there are a number of things that have to be included in the long-term care plans to be offered to Federal employees. As Director Newman indicated in her remarks, OPM intends to provide in the RFP minimum requirements, but will offer a number of plans to ensure choice for employees and competition among insurance carriers.

Mr. Chairman, you have returned. Your timing is perfect.

Thank you.

Senator PRYOR. Thank you, Senator Wilson.

I may submit some questions in writing to our very distinguished witnesses, but I have one comment. I have a sense that the Congress, after the catastrophic debacle, if you want to call it that, is going to be extremely timid to wade off into deciding what benefits and programs our citizenry needs, whether they are Federal employees, Federal retirees, or just individuals. I am wondering if either of you are beginning now to poll your constituents to see what they think they need rather than the Congress deciding.

Are you doing anything like that? I know Mr. Morrissey said he is talking to people, and home health care seems to be a top priority. It certainly is with me. Are you doing any formalized polling?

Mr. MORRISSEY. Speaking for NARFE, Mr. Chairman, we do not have an actual poll in place or a plan immediately, but we hear from our constituents daily and they are still—they are happy with what the two Houses have done thus far with the catastrophic problem, but they are still recognizing the greater need, which is long-term custodial home and home care and they want to work with us and anybody else to come up with a good plan.

Senator PRYOR. Well, there are a lot of casualties on the catastrophic health insurance battlefield. I just know in watching my colleagues on the Pepper Commission, which is bipartisan and includes three representatives from the White House, that whatever we propose is going to be very controversial. There is no way around it because the issue is dollars and where do we get those dollars?

Mr. SOMBROTTO. Well, if I may, Mr Chairman, it has been my experience for many long years that people are generally appreciative of these kinds of activities as long as they are fair, as long as they are reasonable and fair.

I think fairness is the criteria that people look at and, of course, there are no free lunches and they understand that. People like to get free lunch, but when the push comes to shove, they recognize what is fair and what is not fair.

I think that the catastrophic health care was a good idea. I think that the financing structure was not and that was the problem.

Senator PRYOR. Senator Wilson, any final questions? I am going to call our next panel.

Senator WILSON. Just one question. Mr. Sombrotto just made the point that the Federal employees do not expect a free lunch but have indicated a willingness to pay for this kind of long-term care coverage.

Does this mean payment indirectly as taxpayers supporting a public program, or directly through out-of-pocket expenditures for long-term care insurance?

Mr. MORRISSEY. In reading the letters that I receive and in the discussions, both, out of their own pocket and through taxes.

Ms. PARK. I think perhaps there should be some clarification there on the taxes. I think as long as it is a universal tax on all American taxpayers and not a users only or catastrophic type tax. And then I think that another message that perhaps was silenced somewhat in the catastrophic debate was a message from seniors that they want some options available to them, that they are not all sick and senile and unable to make choices about their own benefits and that they want some options there and that they will then make their choices and make their payments on that.

I think that it has also brought home to seniors themselves the fact that they need to determine if they are going to spend their own health care dollars, new health care dollars, then they need to also convey in a message to the legislators of this country how much they are willing to spend and how they want those health care dollars spent, and I think they are beginning to do that.

Senator WILSON. Thank you.

Senator PRYOR. Thank you, Senator Wilson.

Mr. SOMBROTTO. And I thank you, Mr. Chairman, for having the courage to convene these hearings.

Senator PRYOR. Thank you very much, both of you.

We will call our next panel, Gail Shearer, Manager of Policy Analysis, Consumers Union; Joshua Wiener, Senior Fellow of the Brookings Institution; James Firman, President, United Seniors Health Cooperative; and Dennis L. DeWitt, A. Foster Higgins & Company, Los Angeles, California.

We welcome this panel.

Ms. Shearer, we will ask you to make your statement.

We are going to go strictly by the 5 minute rule. It is 11:30 now, and we have another panel to follow. I am afraid a vote may be imminent on the floor, and if so, Senator Wilson and I will have to leave.

We look forward to your statement.

TESTIMONY OF GAIL SHEARER, MANAGER, POLICY ANALYSIS, CONSUMERS UNION [1]

Ms. SHEARER. Thank you, Senator.

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[1] See p. 120 for Ms. Shearer's prepared statement.

Mr. Chairman and members of the Subcommittee, Consumers Union appreciates the opportunity to present our views on S. 38, the Federal Employees Long-Term Care Insurance Act of 1989.

Consumers Union has been actively involved in the issue of long-term care for the past 2 years. A demonstration long-term care insurance policy for Federal employees is in principle a sound idea.

Hundreds of thousands of Federal employees and their spouses could potentially benefit directly and millions of non-Federal employees could possibly benefit from programs modeled after a Federal employee program.

However, we caution you to take the care needed to design the program to avoid possible pitfalls. There are several good things that can be said about offering long-term care insurance to Federal employees.

First, group insurance tends to be more efficient than individual insurance.

Second, competitive bidding and selection by the Government of the best private carriers strikes us as a sound way to allow the private sector to play a role in solving the long-term care problem.

At the same time, the Government retains considerable control over the design of the policies and can demand by the selection process that carriers meet high performance standards both in terms of quality of the product and value for premium dollar.

Third, the sheer size of the Federal workforce means that there is a large potential market for the program.

Fourth, a Federal employee demonstration of this type would allow the Congress and State insurance regulators to evaluate the effectiveness of an alternative regulatory approach.

Ideally, the Congress would standardize the benefit options and allow for assessment of standardization as a tool to improve the performance of the long-term care insurance market.

There are several general points of caution that you should consider in shaping the program. First, the Government has a special obligation, since it is in a sense endorsing and subsidizing a product that will serve both Federal employees and non-Federal employees through imitation products, to assure that the purchasers have a high value product that will perform well in the long run.

Second, current long-term care insurance products that are on the market have a variety of very serious problems that harm consumers. We are not confident that the bill as drafted will avoid these problems.

Third, while life insurance needs do in general decrease as a person ages, many potential purchasers will still have substantial life insurance needs. Care must be taken so that this program does not divert money from needed life insurance to pay long-term care insurance premiums.

Fourth, the bulk of the benefits of this program are decades away. People who buy long-term care insurance at age 50 and 60 are most likely to need the benefits 20 or more years in the future.

Fifth, like other private long-term care insurance policies, this program does nothing to protect younger Federal workers or families with children with birth defects or other disabling illnesses against their lower probability but very real long-term care risks.

Sixth, by design the program seeks to mask the high cost of long-term care policies by using in part Federal workers premium dollars that would have been spent on life insurance.

It is important to recognize that this is not costless. There is no getting around the fact that protecting against the cost of long-term care can be high.

In my written statement, I describe some of the major deficiencies that Consumer Reports has identified in individual long-term care policies. Briefly these are high administrative and marketing costs, variation from one policy to another resulting in consumer confusion, unfair pricing practices, agent abuses such as post claims underwriting, inadequate inflation protection, absence of refunds in the event of cancellation, and risk of insurer insolvency.

The proposed program for Federal employees shares many of these potential problems and raises a few additional concerns as well.

Some of our major concerns about the proposal are: First, inadequate protection against inflation. The bill would increase reimbursement rates each year indexed to the General Service salary increases with an option for the use of other indexes.

The General Schedule Index would fail to provide adequate protection against inflation, since this index tends to be less than inflation, while medical care cost increases tend to be more than inflation.

Second, nonforfeiture value. Federal employees who choose to drop their long-term care insurance coverage should be eligible for some benefit since the premiums they would have paid in would have exceeded by far their risks during the early years of the policy.

Third, education and counseling. Federal employees would benefit greatly from an education/counseling program to assist them in determining both their life insurance and long-term care insurance needs.

We are particularly concerned that employees not feel pressured in anyway to inappropriately convert their life insurance to long-term care insurance. Many families continue to need substantial amounts of life insurance at age 50.

Fourth, portability. Employment based policies raise the issue of portability. What happens should the employee choose to change jobs? The employee should be able to continue the long-term care policy in the event of a job change and of course in retirement as well.

Fifth, policy restrictions. Many private policies, especially those of the early generation of products, used a prior hospitalization gatekeeping device to determine eligibility for benefits.

Under these policies, before becoming eligible for nursing home benefits, the policyholder was required to spend 3 days in the hospital. This requirement meant that many people were or would be denied protection against nursing home costs because they went directly to a nursing home without first going to the hospital.

Whatever the system for determining eligibility for benefits, it should be fair to policyholders and it should not deny coverage just when it is needed.

A demonstration program for Federal employees should cover all types of long-term care in all types of facilities and should avoid fine print restrictions that lead to confusion and eventual denial of protection.

And, sixth, the level of benefits. The bill does not spell out the precise benefits package, but OPM indicates that in one possible package the daily nursing home reimbursement rate would be $44 per nursing home day.

It is important that potential purchasers be fully informed about how this rate compares with typical nursing home costs.

Nationwide, the average cost of a day in a nursing home was about $71 in 1988. In Washington, D.C., the rate ranges from $99 to $132 per day. These levels of coinsurance in the proposed package are much higher than those that Federal employees have experienced with their health insurance.

To the extent that cost increases are not fully indexed to health care inflation rates, the inflation will serve to continue to decrease the percent of charges that would be reimbursed.

In conclusion, we urge you to make changes in S. 38 to ensure that it better meets the needs of Federal employees. This demonstration program should be perfected so that it can serve as a model program that is worthy of replication by private employers.

Thank you, Mr. Chairman.

Senator Pryor. Thank you very much, Ms. Shearer.

Mr. Wiener.

TESTIMONY OF JOSHUA M. WIENER, SENIOR FELLOW, THE BROOKINGS INSTITUTION [1]

Mr. Wiener. Thank you, Mr. Chairman.

The United States does not have either in the public or private sectors satisfactory ways of helping people anticipate and pay for the financially devastating costs of long-term care. Thus, it is appropriate for the Federal Government to offer a private long-term care insurance to its employees as it does health and life insurance.

While private long-term care insurance is not a panacea, it can and should play a much larger role in financing care than it does now. The Federal Government should be a model for other employers who are interested in offering this benefit. While we support the goals of S. 38, there are several ways the bill should be amended to be improved.

First, broaden the eligible population. As I understand it, except for an initial start up period, enrollment under S. 38 is limited to a one time opportunity for active employees who turn age 50. This is far, far too restrictive.

Since use of long-term care services is extremely low until age 85, it could be 35 years or longer before there is any significant claims experience or before the long-term care needs of Federal employees are met to any significant extent.

All active employees, at least age 50 or older, and retirees, perhaps with medical underwriting, should have an annual opportunity to enroll in the long-term care insurance plan.

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[1] See p. 159 for Mr. Wiener's prepared statement.

Second, improve inflation protection. The long period of time between the initial purchase of insurance, say age 50, and the age in which benefits are needed, say age 85, means that inflation will dramatically erode the indemnity level of benefits initially purchased under a fixed benefit plan.

S. 38 recognizes this problem by indexing benefit levels and premiums by the General Schedule. As has been noted repeatedly by other people, this almost certainly will not be adequate.

According to the Health Care Financing Administration, nursing home charges have exceeded the Consumer Price Index by an average of 3 percentage points over the last 10 years, in fact, closer to 3.5 percentage points over the last 5 years.

Adding benefits for inflation will dramatically increase the cost of the premiums. Nonetheless, an adequate inflation adjustment is by far the most important feature of long-term care insurance policies sold to working age persons.

Policies that do not adequately account for inflation are highly misleading to consumers and make promises about financial protection that they cannot meet.

Three, address lapse rate problem by providing reduced benefits. It is not currently known whether large numbers of purchasers of long-term care insurance will drop their policies substantially before they are likely to use benefits. If they do, this creates an equity problem because long-term care insurance premiums are designed to be relatively level, building up reserves in younger years to be used as the insured ages. Thus, from an actuarial perspective, a person who buys a policy at age 50 and drops it at age 65 has paid in more that is necessary to cover their expected long-term care use during that 15 year period.

It is, therefore, desirable to provide a prorated share of the initially purchased policy benefit to persons who have paid in for some period of time and then decide to terminate the policy. For example, an individual who pays premiums for 15 years might be entitled to a $25 a day nursing home benefit rather than a $50 a day nursing home benefit.

Four, improve portability and flexibility. Although S. 38 targets Federal employees with low turnover rates, some Federal employees over age 50 do, in fact, leave the Government before retirement.

Under the current bill, these persons would not be able to continue their policy even by paying the full premium. This is at odds with most existing employer sponsored plans which allow conversion to an individual policy. We recommend that a similar conversion option be available to Federal employees.

Five, as indicated by others, we need to mount a major educational campaign. Our limited experience in this area strongly suggests that long-term care insurance will not sell itself. It will require a major effort by the Office of Personnel Management to educate Federal employees to their risk of using nursing home and home care and the benefit and cost of long-term care insurance.

This initiative need not necessarily be written into the legislation, but it needs to happen. And, certainly, I am encouraged by the comments of Ms. Newman this morning about OPM's willingness to do that. Without that commitment to educate, the effort to provide long-term care insurance to a substantial number of Federal employees will almost certainly fail.

And sixth and finally, in order to make long-term care insurance more affordable, the Federal Government should help pay for it, as it does health insurance. This approach is, after all, critical to the general affordability of acute care insurance. Many fewer people would have health insurance if they had to pay for it all themselves. The innovative conversion of life insurance proposed in S. 38 is a step in the right direction, but probably will not be enough to establish widespread market penetration.

In summary, the ultimate solution to long-term care financing will require an expansion of both the public role and the private insurance role. S. 38 is an innovative proposal to provide private long-term care insurance to Federal employees that deserves to be supported, but it should be improved by: one, broadening the eligible population; two, strengthening inflation protection; three, addressing lapse rate problems by providing reduced benefits; four, improving portability and flexibility; five, mounting a major educational campaign; and, sixth, providing additional Federal contributions to make policies more affordable.

Thank you, Mr. Chairman.

Senator **Pryor**. Thank you very much, Mr. Wiener.

We will call on Mr. James Firman now.

TESTIMONY OF JAMES FIRMAN, PRESIDENT, UNITED SENIORS HEALTH COOPERATIVE [1]

Mr. **Firman**. Mr. Pryor, Mr. Wilson, thank you. I am glad to be here representing the 12,000 older members of the United Seniors Health Cooperative.

We are a regional non-profit group helping members to get through the health care maze by providing consumer information and individual counseling on health care and health insurance options. We do not sell insurance and we have no affiliation with any insurance companies.

Because many of our members are former Federal employees, we are especially glad to be here and I want to make the point that we have made sure that we are presenting views that reflect the sentiments of our members. We have discussed this bill in depth with meetings of our Alexandria Regional Council, our Montgomery County Regional Council, and our District of Columbia Regional Council. So the sentiments I am presenting I think accurately represent both the views of the members and of our professional staff.

In the interest of time, I will limit my remarks to three fundamental questions. What potential does S. 38 have to contribute the availability of good long-term care insurance for Federal employees and to serve as the model for the broader population? To what extent is the conversion of life insurance benefits through long-term care a feasible and desirable option? And how can S. 38 be improved?

To answer the first question, clearly, Federal employees are a desireable target group for any company marketing long-term care insurance. Whatever group rates and benefits could be negotiated would probably be as good or better than individuals would be able to obtain on their own. To this extent, a program for Federal employees would help demonstrate the potential and limits of private products marketed to employee groups.

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[1] See p. 171 for Mr. Firman's prepared statement.

One point that troubles us is that is not clear whether or not OPM plans to permit underwriting, that is, any Federal employee would qualify for coverage regardless of health status or whether it would be much more like a traditional product in which case many people would be excluded from coverage.

I think this is a very significant point that needs to be clarified. It is also important to note that if it is the case where underwriting will be allowed, we are not really talking about a group long-term care insurance product we are talking about an individual product marketed through groups and I think that is a significant difference.

A second possible contribution from an OPM program for Federal employees would be to demonstrate the potential of a carefully regulated and somewhat limited private market.

Currently, it is virtually impossible for individuals to make informed choices and comparisons among competing long-term care plans which vary dramatically in features, cost, coverage, marketing literature, and even in the financial health of the company offering the product.

By narrowing the choice for consumers to a limited number of presumably good plans, OPM might be demonstrating a model that could eventually be expanded to the broader American public.

This could be very significant because in our view, unless we find ways to enable consumers to make informed choices from a limited number of good options, we will never have a private market for long-term care insurance that will successfully address public policy concerns.

In regard to the second question, although we have no major objections, we are less sanguine about the provisions of S. 38 that allow for use of life insurance benefits to pay for long-term care.

Based on our extensive work counseling seniors on these types of questions, we conclude that in fact this conversion option will not appeal to very many people, especially if they have to make that choice sometime when they are in their 50's. Most people in this age group still have spouses and children and, therefore, have a need for life insurance in case they die. Although this option may be attractive to single persons without heirs, by and large we do not expect a great number of people will choose to pay for long-term care in this way.

Another concern we have about the use of life insurance benefits is the uncertain tax consequences. As far as I understand it, the IRS has not yet ruled whether or not long-term care insurance qualifies as a tax exempt benefit. It seems to me that this needs to be clarified prior to the implementation of this program.

We also have three specific recommendations on how S. 38 can be improved without substantially adding to the cost of the program.

First of all, we are convinced that S. 38 should include Federal retirees. After all, retirees are the ones that most keenly feel the anxiety of not being equipped to face the long-term care dilemma. They should have an opportunity to participate in a more affordable and comprehensive long-term care insurance plan.

It seems to us that when OPM sends out their request for proposals to insurance carriers on long-term care packages, it would be a relatively simple and inexpensive process to request the companies also include development of a high quality plan for retirees.

If the intention is not to allow underwriting for Federal retirees, a separate set of bids could be obtained for retiree coverage in which underwriting might still be necessary.

Including Federal retirees in the program will help address the needs of a very significant group, result in a larger insurance pool, and in our view, substantially increase the demonstration value of the entire bill.

Secondly, as others have testified, we believe it is absolutely essential that OPM be given a specific responsibility to provide or arrange for the provision of unbiased counseling and education to all persons considering the purchase of long-term care plans.

We know from our own experience, working with thousands of individuals, that it can be a very frightening and complex issue and that people really do need help. I think it is important that this help be in the form of counseling and not selling. I do not view that the purpose of OPM program should be to convince people to buy long term care insurance. It ought to be to give them a balanced view, including pros and cons, tax consequences, other options that are available to them.

This is absolutely essential both as a model and as a way to make sure that we are really being of service to Federal employees and retirees.

A third recommendation for improving S. 38 is to include provisions for direct participation by Federal employees and retirees in the design and implementation of both the benefits packages and the educational programs. One way to do this would be create a beneficiary advisory committee which would have some direct representation in the RFP process.

I would like to say, we also agree with many of the specific recommendations about features that should be included in the plan, but rather than take your time now, I would just like to submit for the record a special report that we have done in the past on private long-term care insurance, which also includes indications of specific features.[1]

One final point, when discussing S. 38 with our members, they made it very clear to me that they wanted to make one more point to this Committee. Our members are increasingly discouraged with the fragmented and piecemeal approach to Federal health legislation.

Although S. 38 will be a modest benefit to employees and perhaps Federal retirees, virtually all of the seniors present at our meetings expressed the sentiment that Congress needs to take a more comprehensive approach to the Nation's long-term care problems.

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[1] See p. 305.

In summary, United Seniors believes that S. 38, as it now stands, would be a modest step forward in helping current Federal employees. Depending on how the program unfolds, it may also serve as a useful model for other groups.

However, we urge that S. 38 be improved by expanding its scope to include retired Federal employees, by ensuring consumers receive necessary education counseling services, and by mandating more beneficiary participation in the design and implementation of the program.

We also urge Congress to get on with the more important business of developing a national strategy to ensure that all Americans get the long-term care help they need.

Thank you.

Senator Pryor. Thank you, Mr. Firman, for your comments. All of the witnesses will have their full statements printed at the appropriate place in the record.

We will call on Mr. DeWitt and then ask for questions.

Mr. DeWitt.

TESTIMONY OF DENNIS L. DeWITT, A. FOSTER HIGGINS & CO., INC., LOS ANGELES, CA [1]

Mr. DeWitt. Thank you, Mr. Chairman.

At A. Foster Higgins, one of the responsibilities I have is consulting with employers on developing long-term care insurance programs on a group basis.

Prior to joining A. Foster Higgins, I was the Executive Director of the congressionally mandated Task Force on Long-Term Health Care Policies, which submitted a report to Congress and the Secretary, on time, by the way.

One of its recommendations was that State and Federal Government offer their employees these kinds of programs. So I am here both as an unabashed supporter of private long-term care insurance industry and those issues and as having experience with the Task Force.

I do, however, acknowledge, while I am very strong in the private sector, that private financing is not the total answer to addressing long-term care needs and that needs to be underscored and understood.

However, that is no reason that a public program should be developed to provide benefits to those of us who with a little planning and opportunities like those made available S. 38 can provide for our own needs.

I am especially pleased to see that the Senate Majority Leader, Mr. Mitchell, as a co-sponsor. I know he is concerned about the issue and has introduced legislation on his own. However, he has given to much more public involvement than I am, but he does understand and continues to indicate his understanding that the more activity there is in the private sector, the less responsibility has to be picked up by the public sector and I think that is an important issue to remember.

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[1] See p. 185 for Mr. DeWitt's prepared statement.

Many of the projections that were done by our Task Force in the Department of Health and Human Services and Brookings Institute, that my friend, Mr. Wiener, did a report on, indicate that as private long-term care insurance grows there is likely to be savings in the Medicaid program in the area between 1 and 12 percent. In the year 2020, we are talking about half a billion to maybe $6 billion and that is a little bit worth looking at and thinking about.

There are scenarios that have been developed in our report which show the potential of private long-term care insurance if it is begun at lower entry ages, say age 30, that show that you could have a penetration in the market upwards of 60 percent.

S. 38, I think, leads us into that kind of a scenario and those kinds of options. It is difficult to project exactly how many folks separate from Federal employees might be able to take advantage of an approach that is offered like S. 38. However, if you do some extrapolation of the age cohort born between 1945 and 1955 and look at some of the other estimates. You can get a feel of the potential impact. I have taken pension income as a surrogate for having life insurance because in most packages employers have you will see a health benefit, a life insurance benefit, and a pension benefit.

The E.B.R.I. estimates that 63 percent of us will have pension income when we retire, which is the area of 2010 to 2030. And if you use some of the Brookings' numbers, they suggest that there will be about 28.4 million of us in that age cohort at that point in time. About 18 million of those people will have had an opportunity, having had life insurance, to perhaps use this kind of an approach.

So I think there is some real likelihood that this could be used not only in a Federal program, but perhaps as a model externally and that a large number of people would be able to avail themselves of this opportunity if it were presented to them.

Specifically on the bill, I have real problems with the limitation of age 50. I think it is more appropriate to require that it be actuarially sound rather than picking a particular age. That would give a tremendous amount of flexibility in terms of how it is put together in terms of the conversion proposal.

In terms of the non-conversion proposal, there is really no reason at all for any age limitation other than the requirement that a person be actively at work.

The inflation adjustment is a problem that has been spoken to, but the part that concerns me I think has not been spoken to and that is the pricing problem.

With all the things that go into trying to project inflation, you are asking an actuary to also add an assumption of what Congress and the Administration might do. That makes it pretty difficult for the underlying pricing issue to be addressed, which is another reason why that is a poor index to hang the inflation adjustment on.

I also concur with other comments that have been made here with reference to the need to have nonforfeiture values within the bill. I think that would be a very important thing in the program.

And, again, I would associate myself with most of the comments that have been made relative to the educational process.

What we have seen in the private sector is that where extensive educational programs have been put in place there have been good, positive results. Where that has not been done right, the results have been abysmal. So long-term care is really an issue which needs the educational activity.

Mr. Chairman, in my view, there are many, many reasons, as I have indicated as quickly as I could, why S. 38 ought to be passed. I do not think there are many, if any, to delay it.

There is a transitional problem. It seems to me one of the issues that was spoken about earlier, higher costs for current retirees or those about to retire, ought not stand in the way of this issue. That problem ought to be addressed as the transitional problem. It seems to me we can take that, set it aside, and address it individually rather than holding back a program.

If the Federal Government, as an employer, moves in this area, I think it will create a domino effect. If the Federal Government does not move in this area, the private sector will continue to move. It is moving now and will continue to move. It will move a little slower than it would have otherwise.

I think there is a great opportunity here for the Federal Government to take a leadership position, as it ought to, and join with States like Alaska, Ohio, South Carolina, and Maryland and really be a leader in terms of employee benefits.

Thank you, Mr. Chairman. I would be happy to answer questions.

Senator PRYOR. Thank you, Mr. DeWitt.

Senator Wilson.

Senator WILSON. Thank you, Mr. Chairman.

I concur with a number of the points made by Ms. Shearer in her testimony. I think that the concerns she has expressed, as well as her support for both S. 38's concept and the specific proposal as a means of involving the private sector in improving access to long-term care, deserve attention.

Ms. Shearer made the point about inadequate protection against inflation and we all agree this is an important issue. I have made this point. All of the panelists have made it.

Inflation protection is a difficult issue. S. 38's proposed benefit adjustment is tied to the general schedule. I do not, however, think it is simply a question of picking a different index. It is generally accepted, for example, that tying the inflation adjustment to the CPI would serve mainly to fuel inflation and to price long-term policies out of reach of most people.

But let me just for the sake of argument ask the panelists, what would happen if there were a separate medical consumer price index, one that reflects not general inflation, but specific costs of health care?

The impact it would seem to me would be that health care coverage offered by private carriers would zoom up in cost.

Mr. DEWITT. Senator Wilson?

Senator WILSON. Go ahead.

Mr. DEWITT. Senator Wilson, we have done, Foster Higgins has done some projection for our corporate clients because of the FASB regulations that are being considered now with reference to retiree health care.

The fact of the matter is, if we continue at a trend rate of 14 to 18 percent, it will not be very many years before health care will be the only part of our GNP. We do not see that as reality.

We also did some trending from 1948 through the present on health care costs and health care price increase ran around 6 percent. That is not usually the number that is used. It is the utilization part of the health care trend that really increases the cost.

There are a number of ways, it seems to me, to address the issue. Some folks look at building it in the initial premium. I tend to be an advocate of building in the opportunity to purchase additional coverage later with inflated dollars. I think it makes more sense up to a retirement age. I think there are a number of ways you can accomplish it without putting it in the initial premium.

Mr. WIENER. I think you have to build a good deal of it into initial premium. I agree with Dennis in that so long as you are in the active workforce and your salary is going up it makes sense for the premiums to go up. However, the fact of the matter is that for many elderly, their retirement income does not go up very much, especially for non-Federal employees. It does not go up very much. Most private pensions are not indexed for inflation.

So I think for the general economy, while you are in the workforce it makes sense for the premiums to go up, but then they need to be relatively level. I think for Federal employees who have a more indexed pension, it makes sense for it to continue to go up, but that still has to recognize that the income of retirees is below what it was when they were in the workforce.

Mr. FIRMAN. I am of the opinion that there is no one size fit all solution to this. I think that inflation protection needs to be there and the number of choices available to perspective purchasers needs to be limited so that we can compare plans. But I would be a little reluctant to prescribe exactly what the inflation ought to be and then require all of the companies selling to have exactly the same type of plans.

Because our own experience in counseling people is that some people need full inflation protection. Other people could get by with something less than that, in part depending on the amount of the daily benefits that they purchase.

So I think that——

Senator WILSON. Depending on what?

Mr. FIRMAN. On the amount of the daily benefit that they are buying. Some people may need $80 a day in full protection. Other people might buy $100 a day and need partial inflation protection.

I think that if the choices are limited, that would serve the consumer better than requiring just one form of the policy.

Ms. SHEARER. Senator Wilson, part of your question went to the issue of what index should be used and there is a medical component index that HCFA has. It is not ideal for these purposes because it understates services, long-term care services, for example, but one option would certainly be to ask HCFA to take the data that they have and create an index that would be in line with long-term care inflation.

Senator WILSON. Okay. Mr. DeWitt, if that were done, would it not result in a substantial increase in premiums?

Mr. DEWITT. If you add it into the initial premium it would——

Senator WILSON. You and Mr. Wiener have both indicated that you thought it would. What about retirees?

Mr. DEWITT. Is it not my suggestion to include it in initial premiums but begin to address it later.

Senator WILSON. Let me just ask you this, there will be objection I know, but realistically are we not virtually compelled at least to explore the possibility that we may have to deal with present retirees as a separate group who very likely will require substantial taxpayers support at the very same time that we seek to encourage those who are actively employed to pay a higher premium to gain a benefit that they will need in retirement, but not pay for in retirement?

Mr. WIENER. I think that the younger you go in terms of getting people to buy the initial policy, the more important the inflation adjustment is. It borders on fraud, in my opinion, to sell a policy that at age 50 covers the cost of a nursing home stay when 35 years down the road it may require an indemnity level that is three times or four times or five times as high.

People do not understand the devastating impact of compound inflation in terms of eroding that indemnity benefit. I think it is critical for employers and the Federal Government to offer a benefit that provides a benefit 35 years down the road that is roughly comparable to the one that it provides today. It is certainly not going to be easy and it is certainly going to add to the cost of the premiums, but I think that is the reality we have to face.

Mr. DEWITT. Senator, I hope you did not misunderstand this and suggested that either Josh or I were suggesting that premiums ought to cease at retirement. I think that what we were talking about is that the inflation adjustment has to be taken into account so that after you retire your premium stays fixed and that is a significantly different issue.

The price to have a policy paid up at age 65, for example, is exorbitantly high. It basically prices itself out of the market. The compromise approach, I think—Josh, you estimated what, 75 percent increase if you——

Mr. WIENER. If you look at one of the policies that is currently on the market, the Travelers' Group Insurance, they index benefits by the CPI and that increases the premiums over a non-indexed policy by 75 percent. And if you were to go to something above CPI, surely you would be talking about a hundred percent increase or something more than that. And, by the way, the further down you go in terms of age, the bigger the impact of fully adjusting the premium for inflation has.

Mr. DEWITT. The point that I was going to make is that one of the reasons that I strongly believe and we recommend generally that you go to a program that allows you to purchase options later. Basically, incomes will increase up to retirement and that gives the person an option of purchasing that inflation protection with inflated wages. At age 65, you still have to come to grips with the issue and it is going to be a higher premium than one that is not inflation adjusted.

Mr. WIENER. I really strongly disagree with Dennis on that. I think it is asking too much of people to every 3 years go back to the well and try to assess what their benefit is relative to the cost of nursing home care.

Moreover, as I understand most of the employer based benefits, that incremental coverage comes at the higher cost of that attained age. So you may have bought your initial policy at age 50, but whatever addition you are adding to the benefit when you get age 65, is priced at age 65. So that adds tremendously to the cost. Frankly, some simulations that we have done suggests that substantial numbers of elderly are not able to afford that kind of addition to the benefit.

Mr. Firman. All of this in my view speaks to my earlier recommendation for the importance of including Federal employees and retirees directly in the design implementation of the benefits package. One thing I have learned is that any group of experts are going to come up with a variety of good recommendations on what the benefits packages ought to be. If we do not involve the consumers of this product more directly we are going to be to a certain extent just guessing.

Senator Wilson. Your expectation?

Senator Pryor. The cloak room informed me a few moments ago that we are expecting a vote. That was about 5 minutes ago. I thought if we could we might submit follow-up question in writing to this very distinguished panel and call our final panel.

Senator Wilson. I think that is a good idea. I do have some questions for them.

Senator Pryor. I have some too, Senator Wilson. This panel has evidently thought a lot about this issue, and I think they have some wisdom to share with us.

Senator Wilson. Before we move to the final panel, there is one question about which I think we perhaps should hear more from this panel. I have seen various estimates of the costs of a comprehensive, public long-term care program along the lines of Senator Pepper's proposal that was rejected by the House in the last Congress. The cost estimates are extraordinarily high, so high in fact that I would be surprised if the Pepper Commission included a similar approach in its recommendations.

In light of fiscal realities, we are compelled to take the approach of encouraging to the maximum extent possible a private sector response to the problem of long-term care by improving access to LTC insurance for private citizens, whether they are employed in the public or by governments or by the private sector. Given the unlikelihood of a comprehensive public insurance approach to long-term care financing in the U.S., I consider S. 38 a viable near-term option for beginning to tackle the problem of providing Americans access to long-term care. I would be interested in whatever response you care to make beyond your testimony in response to that point.

Mr. Firman. Would you like that now or in writing?

Senator Wilson. We unhappily do not have time now. I would be grateful to have it in writing.

Senator Pryor. I think all of the Subcommittee would.

Senator Wilson. Thank you, Mr. Chairman.

Senator Pryor. Thank you, Senator Wilson.

We thank our distinguished panel.

Our final panel is Mr. Bruce Boyd, Chairman of the Long-Term Care Task Force, Health Insurance Association of America; and Richard V. Minck, the Executive Vice President of American Council of Life Insurance. Mr. Minck is accompanied by Stephen Kraus, Senior Counsel for Pensions.

Gentlemen, we appreciate your coming today. We will abide by the 5 minute rule. We hope we do not get caught, so we will ask you to make your statement. If we have time for questions, they will follow.

TESTIMONY OF BRUCE L. BOYD, CHAIRMAN, LTC TASK FORCE, HEALTH INSURANCE ASSOCIATION OF AMERICA [1]

Mr. BOYD. Thank you, Mr. Chairman. Thank you, Senator Wilson.

On behalf of the HIAA I do appreciate the opportunity to talk to you today. The Health Insurance Association of America represents some 350 insurance companies which write over 85 percent of all commercial health insurance in the country.

I am going to focus my remarks on some of the key points about the financing of long-term care generally, and then some of the highlights of S. 38.

The current financing system, as we have already heard, is flawed. The problem is complex and all elements of society; individuals, families, volunteer organizations, employers, insurers and government all must play a vital part.

There is a growing and critical need for private long-term care insurance to provide a better means of financing long-term care to those who can afford to protect themselves.

As has already been mentioned, there are currently 100 companies writing long-term care insurance and 1.3 million policies have been purchased.

There is also a continued and indeed a greatly improved role the Government can play in financing long-term care for those without adequate resources to protect themselves.

To address these concerns, HIAA believes the following steps should be taken:

Education: Without understanding the problem, the public cannot be expected to understand and evaluate appropriate solutions.

The Government should target assistance to those most in need.

Stimulate the private insurance market: As Senator Wilson stated earlier, this can be achieved in part through clarification and changes in the Tax Code.

We think we must ensure appropriate State regulation. Consumers must have access to products which offer solid protection. Passage of the NAIC model bill in the 13 States without such standards is one of HIAA's highest priorities. And we advocate continued Government support for data collection and research and we promote cooperative public/private financing and delivery arrangements on an experimental basis.

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[1] See p. 205 for Mr. Boyd's prepared statement.

HIAA believes that Senator Wilson's bill, S. 38, is a very positive step toward accomplishing many of the objectives we believe so necessary to help solve the long-term care financing problems.

The following elements of the bill are especially important:

Funds from different asset accumulation vehicles; pension plans, IRAs, and life insurance should be available for the purchase of long-term care insurance.

S. 38 follows this principle by allowing almost 3 million employees and their spouses to use resources available from life insurance.

People's needs vary and change over time. The importance of life insurance protection versus long-term care protection also varies.

This proposal gives people the option of converting existing assets or paying on their own and the Federal Government does not have to fund this critically new option.

This proposal places the Nation's largest employer in a leadership role.

Employer group coverage offers some significant advantages over individual coverage generally purchased at higher ages when the annual premium is quite high.

S. 38 will go a long way toward educating the public and stimulating the employer market simply because it will affect such an enormous group of younger people.

As many of the co-sponsors of S. 38 have indicated, such a program could offer a wealth of data and knowledge about the financing and delivery of long-term care.

Long-term care insurance is new and undergoing continual changes as regulatory and competitive pressures build. S. 38 allows for a flexible plan design. It will accommodate the evolving nature of long-term care insurance, and it will offer consumers the important element of choice.

We do have a few comments and concerns about some of the particular features of this new program and those are in our written statement.

I would only emphasize at this point the need for a commitment to education.

The HIAA supports S. 38 and we look forward to working with you as it moves towards passage. We believe the flexibility of private insurance offers millions of people a preferred way to pre-fund their long-term care. And over time, we believe private insurance will give millions of people the opportunity to be financially independent throughout their retirement years.

S. 38 is a solid step in this direction. It would be a mistake to minimize the potential role of private insurance in designing any comprehensive national policy for long-term care. Instead, the public and private sectors must combine their efforts and knowledge to create a solution that will most benefit Americans today and in the future. This investment will pay off many times as we grow older and it will help avoid our placing an insupportable tax burden on our children.

I thank you for the opportunity to speak to you today and we look forward to working with you as you proceed.

Senator Pryor. Mr. Boyd, thank you very much.

Mr. Minck.

TESTIMONY OF RICHARD V. MINCK, EXECUTIVE VICE PRESIDENT, AMERICAN COUNCIL OF LIFE INSURANCE,[1] ACCOMPANIED BY STEPHEN W. KRAUS, SENIOR COUNSEL, PENSIONS

Mr. MINCK. Senator Pryor, Senator Wilson, I appreciate the opportunity to be here today. I have with me Mr. Kraus, my expert on this subject.

Senator PRYOR. We need a few experts on this subject, thank you.

Mr. MINCK. I am sorry there is no time for questions because Mr. Kraus would have done beautifully.

Senator PRYOR. Well, we may have a few moments here. The vote may have been delayed.

Mr. MINCK. I would like to support the statements by the Health Insurance Association on S. 38 and would like to address and amplify one particular point, namely, the problems of the current tax treatment of long-term care benefits as they affect both private plans generally and as they would affect the Federal employees who would be covered under S. 38.

Now there is currently no program either public or private which will provide adequate protection to everybody. We are a long way from that.

There were a number of objections that were raised today about S. 38 perhaps not going far enough. I think that we are in a situation where we have to make steps forward and if we cannot reach the final solution all at once, still it is important to do the right thing.

So I would urge that not being able to get what we would all like eventually not keep us from doing what we should do.

Now one of the things that has inhibited the growth of private coverage generally at this point is the uncertain tax treatment of long-term care policies.

Today I would like to urge that the Congress consider modifications in the tax laws to create an environment in which both employers and individuals would be encouraged to purchase protection against the costs which are huge, and as indicated earlier, which will grow year by year.

The most important change that could be made would be to clarify that long-term care benefits are not includable in the income of those individuals who are receiving the benefits.

My written statement sets forth a fair amount of detail about the changes that would be needed.

Just to give you some feeling of the areas in which changes might be needed, it might be worth reciting those areas where private coverage is currently being extended and the corresponding tax problems.

Initially, long-term care policies were sold only to individuals. Recently long-term care coverage is also being offered through employer sponsored programs. The tax laws I think particularly should be clarified in this area because employer programs would greatly accelerate the expansion of long-term care. That is, I think, the best opportunity to get millions of people covered in the next few years.

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[1] See p. 220 for Mr. Minck's prepared statement.

Another important development is that life insurance companies have been designing riders to be attached to life insurance policies under which a portion of the death benefit would be paid early to meet long-term care costs.

This can be an extremely cost effective way to provide long-term care protection. You can add riders like that to existing policies so that you can expand coverage for people who are in the ages where it is getting particularly necessary.

We have had a survey recently of the general population and about 60 percent of those people who owned life insurance indicated that they would have bought such riders if they had been available when they bought their policies.

Among those who do not currently have life insurance policies, some 40 percent said that they might buy policies with such riders if they were available.

Now the problem is people who buy them now cannot be sure that the benefits will not be subject to tax when they receive them. A result that would be consistent with long standing tax rules for similar benefits would be for Congress to say no and in fact those benefits would not be taxable to the individual.

In the case of the Senate bill in front of you today, we support, of course, as HIAA did, the concepts embodied in the legislation that would allow Federal employees to convert a portion of their life insurance protection to long-term care coverage.

We think that is a creative mechanism to encourage and enable Federal employees to protect themselves against a potential economic catastrophe that everyone faces in their old age.

We think it is important the OPM have very broad authority to develop and implement a workable plan. We think the bill is properly drawn along those lines. I think that flexibility is needed because both the benefit design and the way to finance it are areas that must constantly evolve and must be left open for improvements as experience develops.

Again, we would emphasize the need for effective communication. Federal employees will have a set of complicated choices and it should be—they should be helped by a comprehensive communications program.

Now one of the tax problems I spoke about a moment ago is raised specifically in S. 38. If an employee elects to convert part of his group life insurance to long-term care insurance, the Internal Revenue Service, we think, may very well treat this as a distribution from the life insurance policy under the current tax laws. If so, the employee would have taxable income.

There are also questions raised in the build up of values if such values are provided and whether or not that would be taxable to the employee.

We think that in order to get this program on the road, if possible, getting those things clarified would be a great help.

To sum up, we think this problem is one that is beyond the reach of either the public or private sector alone. We think it needs an integrated effort. We think the tax laws need to be changed so that every possible instrument that can be used to solve the problem is available and we would be delighted to work with you two gentlemen in any way we could to help reach that outcome.

I thank you again for the opportunity to speak.

Senator PRYOR. Thank you, Mr. Minck.

Senator Wilson.

Senator WILSON. Thank you, Mr. Chairman, and my thanks to the members of the panel.

Let me first ask you about the need for a clarification by Treasury with respect to the tax law changes.

I concur heartily in what you have said and it seems to me that the changes you advocate are essential. As Senator Stevens noted earlier, the tax treatment of conversion from life insurance to long-term care coverage is a key issue. If this conversion were treated as a taxable event, what would be the impact?

Mr. BOYD. I think it would surely impede this as a choice. I think at this point none of us know the likely number of people who will select the option, until it is better formulated and there is an actual enrollment of it, but I think surely if you are going to move from a tax preferred or a non-taxed basis to a taxable one, fewer people would take it.

Senator WILSON. Do you have any estimate of the cost to the Treasury of treating conversion of life insurance benefits to long-term care as a tax-free exchange?

Mr. MINCK. I think basically if you are looking at the situation where the benefits would ultimately be paid as life insurance proceeds, there would be no taxes then either normally and this is an area where there are no existing cash values so that the prospect of surrender generating a potential taxable income does not exist either.

Senator WILSON. Let me ask this. The cost of the Pepper Long-Term Care Bill defeated by the House last year ranged from $27 billion to $67 billion over a 5 year period.

Does HIAA or the Council have any idea how much this cost would be reduced if there were full implementation of the mechanism that is offered by S. 38, not just by Federal employees, but by the private sector and other levels of government across the country?

Mr. MINCK. I think it would be virtually impossible to give a reliable estimate on impact in a short period of time, such as 5 years.

This is a program that will take some time before it delivers benefits to people. I think that if you project forward it can make a very substantial impact, perhaps cut it in half or something like that sometime in the future, but it will not happen overnight.

Again, this is an area where I think we just have to put every weapon that we can assemble to attack the problem and some will do one and some another.

Senator WILSON. Well, I think that is true. I would be interested in what your actuaries can do by way of projecting that because that is going to be at least a threshold question for the Congress in consideration of different alternative approaches to the problem of long-term care financing.

Mr. MINCK. We will be happy to take a look at it and see what we can come up with.

Senator **Wilson**. One of the concerns that I have, which I expressed in my earlier testimony, is that conversion of life insurance to long-term care coverage may not be an approach that can be replicated by small businesses. Could you comment on the ability of the employees of small business to take advantage of this kind of a mechanism?

You have had experience in terms of group life with accommodating the needs of small business employees.

Mr. **Minck**. I believe we have certainly provided both life and health insurance to small businesses. Again, it would have to be in the context of the cost of the program and what small businesses would be in a position to add to their already high level of employee benefit costs or what the employees would be in a position to pay for.

Certainly the design of the programs and the marketing of it would be something that would be of interest to the companies and something that would be possible to do, but I think what we hear from the smaller employers is that they are under considerable financial pressure at this point in time and I think their employees are also. So the extent to which you could go very deeply would, I think, vary widely by industry.

Senator **Pryor**. Pete, could I interrupt right there on the point Mr. Minck just brought out?

Senator **Wilson**. By all means.

Senator **Pryor**. Are there any recent studies on the number of small companies or small businesses who are opting out of all insurance programs for their employees?

Do you have a study of that? I think there are a large number of them.

Mr. **Minck**. I think you are correct and we will have to look and see what is available.[1]

Senator **Pryor**. I do not know if a study is available, but it certainly would be helpful to this Subcommittee and to the Pepper Commission.

Mr. **Boyd**. I would add to the comment that I think Dennis DeWitt mentioned that perhaps the pension plan would be a similar vehicle that may be appropriate—more appropriate for other employers to use as a funding vehicle than the life insurance, but I think the concept could apply.

Senator **Pryor**. Thank you. Senator Wilson.

Senator **Wilson**. Yes, sir. Thank you, Mr. Chairman.

Let me impose upon your charity in appearing here this morning at all by asking that you undertake a further burden. You heard, I think, a very lively, very interesting, and I thought very useful discussion with the panel that preceded you and heard them tic off a number of concerns they had beginning, I think, with the concern about inflation and what might be a proper index, concerns about portability, about education, concerns about the refund if a policy is lapsed, concerns of a general consumer oriented nature, and I would be very much interested in your response to those.

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[1] None were found.

So I would ask that you actually take the testimony of the preceding panel and respond in writing to me and to the Subcommittee what your observations are in response to the points that they have made.

But if we could, in the time that we have, ask for your brief comments with regard to this problem of adjustment for inflation of these health care costs that so outstrip inflation.

Mr. BOYD. Well, inflation protection in long-term care, as has been mentioned, is a very important feature for younger people. As to which is the better way to do it, through add ons, as one holds the policy through time, or as a benefit built in up front, I think that the inflation provision is one that the marketplace will make the decision on.

I think as we start out it is very important that people have the opportunity to look at both methods and decide which they feel suits them best.

The fact that if you purchase insurance at age 50 today, when you are 85, long-term care treatment will be very expensive is a real one, whether or not you have insurance.

The question is, how can we encourage people to buy insurance that most effectively covers that cost when they need it. I think that whichever approach is used the education and the information you give the consumer is critical so that they do know what they have purchased.

Mr. MINCK. I think I would like to make one or two slight points on that. If there is indexing put into a bill and a specific index is attached to the benefits, it is important to make sure that the premiums that are being charged can be adequate to provide those benefits.

We have had experiences in the past where the automatic indexing of say Social Security benefits and taxes got out of sync and it would be a mistake to pin things down to much in that way.

The second thing is, of course, as inflation attacks everything, particularly hospital and medical insurance coverage, I think most employees and employers have had the experience that year by year their premiums have gone up very dramatically no matter how they scheduled paying for them and that was a function of what was happening to their claim costs.

So I do not think there is any royal road out of this one. The problem is those costs are spiraling and whether you fund them in advance or pay as you go, you are going to have to meet them.

The third thing would be to the extent that you could rewrite the tax laws and put some incentive into say there being employer money in it in a continuing employee benefit program you have a little better chance at coping with it than if you limit the spiraling cost of those groups who retired.

Senator WILSON. Mr. Chairman, with Mr. Kraus here it would be a terrible waste if we did not ask him at least one question.

Will the transfer of reserves that would be associated with employees' FEGLI life insurance from that life insurance to long-term care, will that transfer of reserves weaken the FEGLI program in any way?

Mr. KRAUS. You should have asked Mr. Minck that one because he is the actuary, but I think the answer is, no.

Senator WILSON. I will be happy to ask him. [Laughter.]

Mr. KRAUS. I think the answer is no. What is happening is that the employees who elect to make the conversion have the amount of their life insurance under the FEGLI program reduced and so there would be less reserves needed for that reduced amount of life insurance and it would not affect the other people in the FEGLI program who chose not to convert as well. So I do not see a problem with that. There is a tax problem though. That is what creates the tax problem, that the IRS might consider those individuals as getting an economic benefit.

Senator WILSON. Getting a distribution?

Mr. KRAUS. And an economic benefit, right, and, therefore, try to subject it to tax.

Senator WILSON. In her testimony, Ms. Shearer raises the problem of post claims underwriting. That is an issue to which you may wish to respond.

Mr. MINCK. I think that the question is not as clear in the case of the large group plan covering Federal employees. I am not sure how the problem would arise. I think she was speaking about other types of situations. Though, again, I hesitate to put words in her mouth, but I think she was speaking about situations where you have very small cases where underwriting may be performed and where you may have taken a statement of some sort and as to whether or not the individual is eligible for coverage and something turns up to make you think the statement was incorrect.

I really do not see that coming into a program the size of the Federal employees.

Mr. BOYD. I would concur with that.

Senator WILSON. Mr. Boyd, as you are aware, not all of the carriers who have offered so-called Medigap insurance have been completely ethical in their representations. Some have overrepresented what in fact they were offering. This problem has led to problems which I have sought to address through legislation. It certainly has been a problem for the National Association of Insurance Commissioners as well as a very great problem for the ethical and reputable carriers who represent the majority of those in the business.

I know that the Subcommittee sought, but without success, to have a witness here this morning from the National Association of Insurance Commissioners. Could you comment on the potential for abuses we have witnessed in Medigap to extend to long-term care policies? In the absence of a witness from NAIC, perhaps you can respond to this issue.

Some have advocated establishing minimum standards of coverage for LTC products. Do you see the NAIC model moving in that direction?

Mr. BOYD. Well, the NAIC model currently does provide minimum standards as to duration of coverage and the benefits that are incorporated in it and we have supported the model. We have both as an association and the Long Term Care Task Force has spent quite a good deal of time on consumer related issues.

We are totally in favor of education of the consumer and putting them in a position where they can select the most appropriate insurance program for themselves.

We too have witnessed instances of the abuse that you are referring to and we are not in favor of bad private programs. We are in favor of good ones and there are a lot of good ones and they are supported by the association but each time abuses happen it obviously reflects on us. We fully support education efforts designed towards good, sound consumer choice.

Senator WILSON. Mr. Chairman, I think maybe what we ought to do in the interest of time is have a question addressed to NAIC. One of the things that I think would be useful to learn is how the NAIC enforces its regulations. What penalties are imposed on insurers found to be in violation? And what penalties are imposed, if any, on State Governments that are found not to be enforcing the law? I would be happy to have a comment from the panel, but it seems to me we ought to get that directly from NAIC, as well.[1]

One final point—and you have been very, very patient, Mr. Chairman and [illegible]ppreciate it.

The October [illegible]9 issue of Consumer Report notes that there are over 800,000 of the early generation more restrictive long-term care policies still in force.

Do policy holders who hold these earlier policies have any options to take advantage of a newer generation of policies, which are greatly improved, dropping, for example, mandatory hospitalization and other requirements?

Are such policy holders able to take advantage of the advances that have been made in the product offered, or are they stuck with the policies they have?

Mr. BOYD. Well, they can surely take advantage of them in the marketplace if they see them as a better purchase. I do not know the extent to which companies set in motion sort of a trade in of old policies for new policies. I just do not know that as a fact.

Mr. MINCK. I would expect it would be different among different companies, just as it has been in other areas whenever a new generation of policies have come out some companies have actively tried to get their existing policy holders to replace their old ones, others have not and I do not know that there would be a single answer.

Senator WILSON. That question may seem a touch uncharitable I suppose. It does not seem like an appropriate reward to the carriers who had the courage and the will to be pioneer in the area of long-term care insurance. In fairness to the carriers and in fairness to the general public, the industry might do well to make it known to consumers what changes have occurred in long-term care products. I think there have been dramatic improvements in products offered, products that are far more responsive to consumer needs and circumstances.

Mr. MINCK. I think it is fair to say that companies that are currently selling the new improved products are doing their best to inform the public about it.

Senator WILSON. I think they have an incentive to do so, but since you are being kind enough to respond in writing to the points made by your critics, it seems to me that perhaps you ought to avail yourself of the opportunity to state for the Committee record what changes have been made in long-term care products, changes that are very much to the credit of the industry.

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[1] See p. 263.

Mr. MINCK. Senator Wilson, we appreciate the opportunity. Thank you.

Senator WILSON. Mr. Chairman, I appreciate the patience of all of the witnesses this morning and your very great patience; it seems to me to be a reward for my patience, in a sense.

This legislation was introduced as S. 1738 in the 100th Congress about 2 years ago and it has been a subject that has sustained my interest. In fact, my interest has grown in the meantime as have the number of co-sponsors.

So I am encouraged that we will in fact go forward and I hope that we do. The experience that we had with the Medicare Catastrophic Coverage Act as you indicated with characteristic perspicacity, seems an omen that Congress will not rush where they should have feared to tread. But I think that what we must take to heart Mr. DeWitt's earlier comment that while my proposal, S. 38, is not the panacea to the long-term care problem, it is a first step—to a first step that we must take soon.

It seems to me that if we wait for a perfect solution to the problem of long-term care, we will never get there. Further, we need at the outset to face squarely whether or not we are going to seek to involve the private sector in developing solutions, a partnership that, in my view, can greatly reduce the residual burden to the taxpayer.

Thank you.

Senator PRYOR. Senator Wilson, we thank you. We once again appreciate your initiative in introducing S. 38. I congratulate you on the number of co-sponsors you have in the Senate. You even have, as some witnesses have stated, the Majority Leader. Now you are more successful in getting the Democratic leader to join in your legislation than I am to get him in joining in some of mine. I want to ask you how you do that? [Laughter.]

No, but you do have a very, very good group of sponsors.

I would like to make one request. I would like to know, if it is not a violation of ethics, if we might have for the record a list of companies that are offering policies with long-term coverage.[1] What are some of the provisions that most of the employees seem to be most desiring and the cost not only to the employer, but also to the employee? I think that would be very helpful to us.

Would that be a possibility, Mr. Boyd and Mr. Minck?

Mr. MINCK. Certainly we can provide a list of companies that offer such coverage and we would be happy to do that. On the question of benefit design and charges, we would be happy to provide whatever can be done on a publicly available basis. We have to avoid some certain cooperative activity.

Senator PRYOR. We do understand that.

Mr. BOYD. The HIA has done some general market analysis and has put together a market trends brochure which we will be happy to share with you. That will give you a general overview. It may not give you detailed per company information, but I think it will give you an overview of the product, the way it has matured in the last several years and the kinds of policies people are buying. We would be happy to submit that.

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[1] See p. 308.

Senator **Pryor**. Thank you very much for doing that.

We want to thank our final panel today and all of the witnesses who testified this morning.

The meeting will now be concluded.

[Whereupon at 12:50 p.m., the Subcommittee adjourned, subject to the call of the Chair.]

APPENDIX

101ST CONGRESS
1ST SESSION

S. 38

To make long-term care insurance available to civilian Federal employees, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 25 (legislative day, JANUARY 3), 1989

Mr. WILSON (for himself, Mr. MITCHELL, Mr. DOLE, Mr. PACKWOOD, Mr. MOYNIHAN, Mr. DURENBERGER, Mr. DODD, Mr. ROTH, Mr. INOUYE, Mr. HATCH, Mr. HEINZ, Mr. MATSUNAGA, Mr. STEVENS, Mr. GRAHAM, Mr. D'AMATO, Mr. BRADLEY, Mr. COCHRAN, Mr. GRASSLEY, Mr. SANFORD, Mr. WARNER, Mr. SYMMS, Mr. COHEN, Mr. HATFIELD, Mr. BOND, Mr. RUDMAN, Mr. KASTEN, Mr. MCCAIN, Mr. DANFORTH, Mr. LUGAR, Mrs. KASSEBAUM, Mr. DOMENICI, Mr. ARMSTRONG, Mr. MACK, Mr. BOSCHWITZ, and Mr. MCCONNELL) introduced the following bill; which was read twice and referred to the Committee on Governmental Affairs

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A BILL

To make long-term care insurance available to civilian Federal employees, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Employees Long-term Care Insurance Act of 1989".

SECTION 1. LONG-TERM CARE INSURANCE.

Chapter 87 of title 5, United States Code, is amended—

(1) in section 8701 by adding at the end thereof the following new subsection:

"(e) For the purpose of this chapter, 'long-term care insurance' means any policy purchased by the Office of Personnel Management under authority of section 8709 of this title for the purpose of providing coverage for not less than 12 consecutive months for each covered person on an expense incurred, indemnity, or prepaid basis for necessary diagnostic, preventive, therapeutic, rehabilitative, maintenance, or personal care services to maintain activities of daily living or functional capacity, provided in a setting other than an acute care unit of a hospital. Such coverage may include not only institutional services but in-home and community-based services as well. The coverage under long-term care insurance is not intended to provide basic Medicare supplemental coverage, basic hospital expense coverage, basic medical-surgical expense coverage, hospital confinement indemnity coverage, major medical expense coverage, disability income protection coverage, accident-only coverage, specified disease or specified accident coverage, or limited benefit health coverage.";

(2) in section 8704 by adding at the end thereof the following new subsection:

"(e)(1) The Office shall provide optional group long-term insurance coverage for civilian employees in accordance with the following terms and conditions:

"(A) Consistent with the conditions, directives, and terms specified in section 8701(e), 8709, and 8712 of this title, the Office shall arrange for each qualified employee, as defined in paragraph (4) of this subsection, to have an opportunity to irrevocably convert a portion of the employee's basic insurance amount and associated accrued projected claims reserve funds, as determined by the Office of Personnel Management, for purposes of group life insurance and accidental death and dismemberment insurance under this section to group long-term care insurance.

"(B) The long-term care insurance shall, as the Office determines appropriate, offer employees more than one reimbursement plan from more than one insurer.

"(C) The Office shall determine appropriate employee contributions which shall be payable for all periods during which long-term care insurance continues and shall be withheld from any salary, compensation, or retirement annuity due an insured individual. Each employee's contribution rate under this subsection shall be determined by the employee's age at the time an election is made for purposes of this subsection, relative to such age and rate categories as the Office determines will, with adjustments provided for under paragraph (3) of this subsection, fully cover estimated long-term care insurance policy costs in excess of the actuarial value of the life insurance conversion amount.

"(D) The Office shall establish appropriate age and rate categories for qualified employees who wish to avoid the basic insurance conversion requirement and pay the full cost of group long-term care coverage.

"(E) The Office shall also arrange for qualified employees who elect group long-term care insurance on themselves under this subsection to have, simultaneous with their election or upon subsequent marriage, the option of purchasing supplementary long-term care insurance coverage on a spouse, without evidence of such spouse's insurability and at appropriate group rates added to the affected employee's individual contribution rate.

"(F) An active or retired employee may cease contributions under this subsection at any time, in which case the long-term care insurance shall terminate, with no restoration of converted group life insurance coverage.

"(2) Any employee who elects to convert basic life insurance to long-term care insurance as provided by paragraph (1) of this subsection shall retain a residual amount of the group life insurance and accidental death and dismemberment insurance authorized under this section which shall equal the greater of—

"(A) $2,000, or

"(B) an amount representing the basic insurance amount generally available based on the employee's current annual rate of basic pay decreased by the life insurance conversion requirement established pursuant to paragraph (3) of this subsection on the date the employee elected long-term care insurance.

"(3) For purposes of this subsection, the Office shall specify the initial dollar amounts for the life insurance conversion requirement and, in consultation with insurers, determine the reimbursement rates for benefits under each long-term care insurance plan (including reasonable waiting periods for benefit commencement) and periodic employee contributions for self and for spouse coverage based on age categories of qualified employees as the Office considers appropriate. All amounts determined in accordance with this paragraph shall be subsequently adjusted on the effective date, and in accordance with the average percent, of any change in pay rates for the General Schedule authorized under section

5305 of this title. Other adjustments of amounts under this paragraph may be made at such other times and in such amounts as the Office determines necessary and prescribes by regulation. The Office may, through negotiations with insurers, provide options that, by using other indexes, allow increases that exceed those of the General Schedule.

"(4) A qualified employee for purposes of this subsection is any employee who is subject to this chapter and who—

"(A) is in active service;

"(B) attains an age specified by regulations of the Office, which shall be no less than 50 years of age;

"(C) is insured under this chapter and has been insured for a total of 10 years, or elects to make contributions for long-term care insurance without the benefit of the basic insurance conversion authorized by paragraph (1) of this subsection; and

"(D) has not transferred ownership of life insurance to another person under subsection 8706(e) of this chapter.

"(5) Notwithstanding the provisions of paragraph (4)(B), after the 5-year period beginning on the effective date of this subsection, an employee may be less than 50 years of age and qualify under the provisions of paragraph (4) if determined to be eligible under regulations promulgated by the Director of the Office of Personnel Management.

"(6) Unless otherwise provided by regulations of the Office, all elections involving employee insurance under this subsection shall be made within a period which the Office shall specify that begins when each employee first becomes a qualified employee as described in paragraph (4) of this subsection.";

(3) in section 8706(a)—

(A) by inserting "life insurance" immediately before "policy purchase"; and

(B) by inserting after the first sentence the following: "An election of long-term care insurance under subsection 8704(e) shall be disregarded for purposes of determining an employee's basic insurance amount under this subsection. A long-term care insurance policy under this chapter may provide for conversion to an individual or group policy upon separation from service.";

(4) by amending section 8707(c) to read as follows:

"(c)(1) Except as otherwise provided by this subsection, the amount withheld from the pay, annuity, or compensation of each employee subject to insurance deductions under this section shall be at the rate, adjusted to the nearest half-cent, of 66⅔ percent of the level cost as determined by the Office for each $1,000 of the employee's basic insurance amount.

"(2) No employee withholding is required under this subsection, however, for any part of the basic insurance amount that is converted to long-term care insurance under subsection 8704(e) of this title.";

(5) by amending section 8708(a) to read as follows:

"(a) Except as otherwise provided by this section, for each period in which an employee is insured under a policy of insurance purchased by the Office of Personnel Management under section 8709 of this title and is subject to withholding under section 8707 of this title, a sum equal to one-half of the general employee withholding specified under section 8707(c)(1) of this title shall be contributed from the appropriation or fund used to pay the employee. Contributions under this section shall be apportioned between basic life insurance and long-term care insurance accounts in the Employees' Life Insurance Fund if an employee has elected the basic insurance conversion permitted under section 8704(e) of this title.";

(6) in section 8708 by adding at the end thereof the following new subsection:

"(d) The sum required by subsection (a) of this section in the case of each employee who retires on immediate annuity or commences receiving compensation under subchapter I of chapter 81 of this title after December 31, 1989, and who elects to retain insurance under section 8706(b)(3)(A) of this chapter, shall be paid by the Office from annual appropriations which are hereby authorized to be made for that purpose and which may be made available until expended.";

(7) by amending section 8709(a) to read as follows:

"(a) The Office of Personnel Management may, in its sole discretion and without regard to section 3709 of the Revised Statutes (41 U.S.C. 5) purchase from one or more duly licensed insurers a policy to provide benefits specified by this chapter, including group life insurance, accidental death and dismemberment insurance, and long-term care insurance. For long-term care insurance, purchase will be through a competitive process among insurers who agree to accept liability for the benefits offered. To be eligible for consideration as an insurer under this chapter, an entity shall meet the following requirements:

"(1) For purposes of group life and accidental death and dismemberment insurance, such insurer shall—

"(A) be licensed to transact such insurance in all the States; and

"(B) have in effect, on the most recent December 31 for which information is available to the Office, an amount of employee group life insurance equal to at least 1 percent of the total amount of employee group life insurance in the United States in all life insurance companies.

"(2) For purposes of group long-term care insurance, such insurer shall—

"(A) be licensed to transact group life or health insurance in each State in which the company proposes to offer long-term care benefits provided by this chapter; and

"(B) have, in the judgment of the Office, long-term care expertise, substantial experience with insuring very large groups, and financial soundness."; and

(8) in section 8710—

(A) in subsection (a)—

(i) by inserting "life and accidental death and dismemberment" immediately after "total amount of"; and

(ii) by adding at the end thereof the following new sentence: "This section shall not apply to long-term care insurance authorized under subsection 8704(e) of this chapter (except as provided in subsection (g) of this section).";

(B) by adding at the end thereof the following new subsection:

"(g) The Office shall arrange with a company issuing a policy for long-term care insurance for the reinsurance, under conditions approved by the Office, of portions of the total liability to be assumed with other insurance companies which elect to participate in the reinsurance,";

(9) in section 8712 in the fourth sentence by striking out "life"; and

(10) in section 8714(a) in the first sentence by inserting "8704(e) or" before "8707".

SEC. 502. EFFECTIVE DATE.

This title shall take effect on January 1 of the first year which begins at least 120 days after the date of enactment.

S. 38: THE FEDERAL EMPLOYEES LONG-TERM CARE INSURANCE ACT

Section-by-section analysis

Section 1. Long-Term Care Insurance. Ten amendments to the Federal Employee's Group Life Insurance (FEGLI) law (Chapter 87 of Title 5).

(1) Adds a new subsection (e) to section 8701 to define the term "long-term care insurance" for the purposes of this chapter in a manner that closely parallels the definition adopted by the National Association of Insurance Commissioners (NAIC) in its Long Term Care Insurance Model Act.

(2) Adds a new subsection (e) to section 8704 requiring the Office of Personnel Management (OPM) to provide optional long-term care (LTC) insurance for Federal civilian employees.

Paragraph (e)(1):

Subparagraph (A) directs OPM to give active Federal employees who are age 50 or older the option of irrevocably exchanging a portion of FEGLI life insurance for LTC insurance.

Subparagraph (B) permits OPM to negotiate with insurers under this program for multiple reimbursement plans and additional benefits over the minimum requirements.

Subparagraph (C) directs OPM to determine age-adjusted contribution rates for LTC insurance plans, grouping individuals according to age at the time of LTC enrollment.

To minimize LTC premiums and increase the incentive for participation in the LTC insurance program, employees (who satisfy the age requirement and have participated in the FEGLI program for at least 10 years) would have the option to irrevocably convert a portion of basic FEGLI coverage and the associated accrued projected claims reserve funds to LTC coverage. (As determined by OPM, associated accrued claims reserves represent the average projected excess of future life insurance benefits converted over the future premium which would have to be paid for those benefits). Following this conversion, the employee would pay the usual employee share toward the cost of remaining basic life insurance coverage, plus a reduced LTC insurance premium to cover LTC costs in excess of the value of the converted FEGLI assets. The government would continue to pay its usual contribution for basic life insurance, but

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contributions associated with converted life insurance would be allocated to the LTC program. Employees would be responsible for paying LTC premiums during all periods in which coverage continues.

Subparagraph (D) provides that employees who are ineligible for the FEGLI conversion or who do not wish to convert may elect LTC insurance and pay the full group-based LTC premium.

Subparagraph (E) provides that employees who participate in the LTC insurance option will also have the option to purchase supplementary coverage for their spouse at standard group rates and without evidence of such spouse's insurability. This option must be exercised at the time of the employee's participation or upon subsequent marriage.

Subparagraph (F) provides that LTC insurance may be terminated by employees at any time, with no restoration of converted FEGLI coverage.

Paragraph (e)(2) provides that any employee who elects to convert basic life insurance to LTC insurance shall retain life insurance equal to the greater of $2,000 or that portion of the employee's basic insurance amount which exceeds the maximum conversion requirement established by OPM.

Thus, a minimum amount of basic life insurance must be retained to meet basic burial expenses. In addition, any employee whose individual circumstances make a significant amount of life insurance desirable could supplement basic insurance benefits with an existing plan of optional life insurance providing death benefits of up to five times annual salary (FEGLI Option B-Additional).

Paragraph (e)(3) directs OPM to specify the initial dollar amount for reimbursement rates for LTC benefits and LTC insurance premium rates for employees and spouses, based on employee age categories. These amounts shall automatically increase by the average percent of subsequent adjustments in General Schedule pay rates. OPM regulations may prescribe other adjustments to assure a reasonable benefit structure, protection of the adequacy of benefits, and the financial integrity of the program.

Paragraph (e)(4) describes "qualified employees" for the purposes of this Act as actively in service and 50 years of age or older. In order to participate in the FEGLI conversion option, employees must have participated in FEGLI for at least 10 years and have not assigned life insurance ownership to another person.

Paragraph (e)(5) provides that the minimum age requirement (50) for participation in the new LTC program expires five years after the date of enactment, after which OPM may lower the qualifying age by regulation.

Paragraph (e)(6) requires employees to elect LTC insurance at first opportunity.

(3) Amends section 8706(a) to preserve an employee's right, upon separation from service or other involuntary loss of FEGLI eligibility, to acquire a replacement individual life insurance policy without evidence of insurability. It would also allow OPM to negotiate with participating carriers to provide such separated employees with an option to convert to an individual or group LTC insurance policy.

(4) Amends subsection 8707(c) to clarify the extent of an employee's continuing responsibility for basic FFGLI contributions after conversion to LTC coverage.

(5) Makes conforming amendments in subsection 8708(a) concerning government contributions under the FEGLI program.

(6) Adds a new subsection (d) to section 8708 with respect to government contributions under FEGLI to correct an oversight in the Federal Employees' Group Life Insurance Act of 1980, P.L. 96-427, with regard to government contributions required for annuitants and workers' compensation recipients.

(7) Amends subsection 8709(a) to expand OPM's contracting authority in the FEGLI law to include LTC contracting authority with any duly-licensed life or health insurance company. LTC contracts would be based upon a competitive bidding process among carriers who agree to accept liability for the benefits offered.

(8) Amends section 8710 by adding a new subsection (g) to require any company contracting with OPM to provide LTC insurance to reinsure portions of this liability with other insurance companies under conditions approved by OPM. This step is taken to ensure the financial stability of the new LTC insurance program.

(9) Conforming amendment to section 8712 to apply FEGLI accounting procedures and fund management to LTC insurance policies.

(10) Conforming amendment to section 8714(a) to provide that the Employees' Life Insurance Fund shall be the depository for employee contributions to both life and LTC insurance.

Section 2. Effective Date: January 1 of the first year beginning at least 120 days after enactment.

S. 38: AN OVERVIEW

S. 38: A bill to make long-term care (LTC) insurance available to federal employees. Specifically, S. 38 offers federal employees age 50 and over the option of participating in a LTC insurance program at group rates. Further, S. 38 offers employees age 50 and over with a minimum of ten years experience in FEGLI the option of converting a portion of their life insurance for LTC insurance.

The intent of the legislation is to provide federal employees with an important new benefit option, one that is provided by few employers at this time; challenge the private insurance industry to compete in the LTC marketplace and provide quality, affordable LTC products; and to begin the process of making LTC coverage available to a broad spectrum of Americans.

HOW S. 38 WORKS:

Individual Enrollment

- Federal employees 50 years of age and older would be eligible to enroll in a long-term care (LTC) plan.
- Participating employees could choose to enroll with or without a simultaneous conversion of a portion of the face value of their group life insurance (FEGLI) to LTC coverage. The life insurance conversion would result in a lower premium to the employee. A 10-year participation in the life insurance program would be required for conversion.
- Employees choosing to enroll in a LTC plan could simultaneously enroll their spouses in the same plan without evidence of insurability and at group rates.
- Employees exercising the conversion option would retain a minimum of $2,000 life insurance coverage and would be allowed to purchase additional life insurance coverage if they desired.

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Financing

- Employees not selecting the life insurance conversion would be responsible for the entire premium, though they would acquire LTC coverage at a rate sustained by the group as a whole which is considerably below individual rates.
- Employees converting life insurance to LTC coverage would pay a premium adjusted so that the amount they pay, taken together with the reserves associated with their life insurance coverage and the redirection of the contribution the government would otherwise make to their life insurance, would sustain the cost of the benefits.
- It is difficult at this point to project precisely the LTC premium to be paid by the employee, in that the terms of OPM's LTC insurance contract with carriers are subject to standards to be promulgated by OPM and choices made by the private carriers who will be asked for bids.
- Rates and benefits would rise automatically with increases in the General Schedule pay scale. Additional inflation protection might be available in some plans.

Selecting Benefit Plans and Insurers:

- OPM would issue a request for proposal (RFP) setting forth minimum standards for level and duration of LTC coverage (specifically, nursing home and home health care coverage).
- Based on the competitive bidding, OPM would select several different benefit plans to be offered to federal employees. The key criteria for selecting carriers include experience in LTC insurance and financial soundness.
- Each plan would provide scheduled dollar reimbursements, indexed at a minimum to increases in the General Schedule pay scale, for a duration of at least one year. Carriers would be asked to price the stipulated coverages in terms of level lifetime premiums based on age at entry and to suggest and price optional LTC benefits.
- OPM would be permitted to negotiate with insurers for optional LTC benefits such as additional indexation of benefit amounts, variable waiting periods, and increased benefit coverage.

- OPM regulations may prescribe other adjustments to assure a reasonable benefit structure, protection of the adequacy of benefits, and the financial integrity of the program.

- OPM plans to review the program after three to five years at which time the contract would be reviewed and the rate redetermined for new enrollees.

- Employees who enrolled with a given insurer under a given plan would remain the responsibility of that insurer regardless of whether the insurer's contract with OPM was renewed. The insurer would be at risk for the benefits due to those individuals and could not terminate coverage except for non-payment of premiums.

- Similarly, employees could not exchange coverage with one insurer for coverage with another.

- Additional benefit plans could be offered on a competitive basis after the initial contracting cycle, depending on experience and demand.

THE USE OF LIFE INSURANCE TO ADDRESS THE LONG-TERM CARE PROBLEM:

- As an employee reaches his mature years, his need for large amounts of life insurance coverage decreases and his need for LTC insurance increases. Instead of carrying a large amount of life insurance coverage into retirement, many would be better served if their life insurance coverage and the reserve funds associated with it could be converted to LTC insurance.

  [It is important to reemphasize, however, that conversion is not mandatory. Because individuals' circumstances vary widely, S. 38 provides two additional options: (1) those who do not wish to convert their life insurance can still enroll for LTC coverage and pay its full costs (ie. not receive the premium reduction made possible by conversion; (2) the life insurance lost in conversion can be replaced by a new opportunity for enrollment in FEGLI's Option B coverage. These options assure that no one would be forced to reduce their FEGLI in order to get LTC insurance.

- LTC presents a special funding difficulty. While health insurance is generally priced to cover the near-term health costs of the affected group, LTC is better financed by setting aside funds today for a need which may not arise for many years in the future. The life insurance program provides such long-term financing.

TESTIMONY BY

THE HONORABLE PETE WILSON

UNITED STATES SENATOR (R-CA)

BEFORE THE

SUBCOMMITTEE ON FEDERAL SERVICES, POST OFFICE,
AND CIVIL SERVICE

SENATE GOVERNMENTAL AFFAIRS COMMITTEE

NOVEMBER 2, 1989

MR. CHAIRMAN,

IN THE RECENT DEBATE SURROUNDING THE MEDICARE CATASTROPHIC COVERAGE ACT, THE NATION'S SENIORS MADE ONE POINT PERFECTLY CLEAR: THE EXPENSE OF LONG-TERM CARE IS THE TRUE MEDICAL CATASTROPHE WHICH THEY FEAR MOST. HOWEVER, THE DEFEAT OF THE PEPPER BILL IN THE LAST CONGRESS, AND INACTION ON NUMEROUS TAXPAYER-SUPPORTED LONG-TERM CARE PROPOSALS PENDING IN THIS SESSION, CONFIRM CONGRESSIONAL RESERVATIONS ABOUT COMMITTING SUBSTANTIAL FEDERAL FUNDS TO ENACT A COMPREHENSIVE PUBLIC LONG-TERM CARE PROGRAM.

IN THE NEAR-TERM, AT LEAST, THE DEATH KNELL FOR PROPOSALS TO ADDRESS THE PROBLEM OF LONG-TERM CARE THROUGH EXPANDED FEDERAL BENEFITS HAS BEEN STRUCK.

NONETHELESS, THE REALITY OF THE NATION'S LONG-TERM CARE PROBLEM REMAINS COMPELLING. REPRESENTING 13 PERCENT OF THE NATION'S POPULATION TODAY, AMERICANS OVER AGE 65 WILL COMPRISE NEARLY 20 PERCENT OF THE POPULATION BY THE YEAR 2030. RESEARCH SUGGESTS THAT ROUGHLY FORTY PERCENT OF PEOPLE AGED 65 AND OVER RISK ENTERING A NURSING HOME. THOSE AT GREATEST RISK OF NEEDING LONG-TERM CARE ARE INDIVIDUALS OVER AGE 85, THE FASTEST GROWING AGE GROUP IN THE UNITED STATES. WITH MEDICARE PAYING LESS THAN 2 PERCENT OF NURSING HOME EXPENSES AND PRIVATE INSURANCE COVERING ONLY 1 PERCENT, THE ENORMOUS

FINANCIAL BURDEN LONG-TERM CARE IMPOSES IS BORNE BY THE ELDERLY AND THEIR FAMILIES.

IN THE AFTERMATH OF THE CATASTROPHIC COVERAGE DEBATE AND IN THE CONTEXT OF FISCAL CONSTRAINTS AND DEMOGRAPHIC REALITIES, CONGRESS NEEDS TO FIND VIABLE SOLUTIONS TO THE PROBLEM OF LONG-TERM CARE WITHOUT IMPOSING UNREALISTIC EXPENDITURES UPON THOSE WHO PAY FOR COVERAGE AND UPON THE FEDERAL GOVERNMENT.

THIS MORNING'S HEARING PROVIDES US WITH AN OPPORTUNITY TO EXAMINE AN INNOVATIVE AND FISCALLY NEUTRAL PROPOSAL TO MAKE AFFORDABLE, QUALITY LONG-TERM CARE COVERAGE AVAILABLE TO FEDERAL EMPLOYEES IN A MANNER THAT CAN BE REPLICATED IN THE PRIVATE SECTOR. IT IS FITTING AND PROPER THAT THE FEDERAL GOVERNMENT, THE NATION'S LARGEST EMPLOYER, TAKE THE LEAD IN OFFERING ITS EMPLOYEES THIS IMPORTANT NEW BENEFIT WHICH IS CURRENTLY PROVIDED BY FEW EMPLOYERS IN THE PRIVATE SECTOR.

THE FOCUS OF OUR ATTENTION THIS MORNING IS ON LEGISLATION I HAVE SPONSORED, S. 38, WHICH WOULD REQUIRE THE FEDERAL GOVERNMENT TO EXPAND BENEFIT OPTIONS AVAILABLE TO FEDERAL EMPLOYEES TO INCLUDE LONG-TERM CARE INSURANCE. THIS BILL IS BASED ON AN INNOVATIVE AND COST-EFFECTIVE PROPOSAL DEVELOPED BY THE OFFICE OF PERSONNEL MANAGEMENT (OPM) IN THE LAST ADMINISTRATION. IT WOULD PROTOTYPE A LONG-TERM CARE INSURANCE PLAN FOR FEDERAL EMPLOYEES AND THEIR SPOUSES, SUCH THAT SOON THEREAFTER IT WILL BE DUPLICATED BY PRIVATE BUSINESS FOR THE GENERAL PUBLIC.

AT PRESENT, 55 SENATORS HAVE JOINED ME IN COSPONSORING S. 38. I BELIEVE THE BILL HAS WON SUCH BROAD, BIPARTISAN SUPPORT BECAUSE THE MEASURE DEMONSTRATES HOW THE PUBLIC AND PRIVATE SECTORS CAN WORK TOGETHER TO ADDRESS THE LONG-TERM CARE PROBLEM.

SIMPLY PUT, THE LEGISLATION BEFORE US GIVES FEDERAL EMPLOYEES TWO BASIC LONG-TERM CARE OPTIONS. FIRST, IT CREATES LONG-TERM CARE INSURANCE AS A NEW OPTIONAL BENEFIT FOR FEDERAL EMPLOYEES OVER THE AGE OF 50. THROUGH THE POOLING OF EMPLOYEES, THE MEASURE GIVES ENROLLEES ACCESS TO LONG-TERM CARE INSURANCE AT LOWER GROUP RATES.

SECOND, IT GIVES EMPLOYEES OVER AGE 50 WITH A MINIMUM OF TEN YEARS PARTICIPATION IN THE FEDERAL LIFE INSURANCE PROGRAM, FEGLI, THE OPTION TO CONVERT A PORTION OF THEIR LIFE INSURANCE TO LONG-TERM CARE COVERAGE. UNDER THE LIFE INSURANCE CONVERSION OPTION, THE FEDERAL GOVERNMENT AND THE EMPLOYEE WOULD REDIRECT CONTRIBUTIONS NORMALLY MADE TOWARD THE EMPLOYEE'S LIFE INSURANCE. THESE REDIRECTED CONTRIBUTIONS, COUPLED WITH THE RESERVES IN THE EMPLOYEE'S LIFE INSURANCE FUND, WOULD DEFRAY THE EMPLOYEE'S LONG-TERM CARE PREMIUMS BY ROUGHLY $20 A MONTH. THIS $20 MONTHLY CONTRIBUTION IS SIGNIFICANT COMPARED TO EXISTING LONG-TERM CARE PREMIUMS WHICH RANGE FROM $20 TO $50 A MONTH FOR FIFTY-YEAR-OLDS UNDER EXISTING GROUP PLANS.

NOTABLY, NEITHER OPTION INVOLVES ANY ADDITIONAL EXPENSE TO THE FEDERAL GOVERNMENT.

IN REGARD TO ENROLLMENT REQUIREMENTS, I WOULD NOTE THAT THE AGE OF 50 WAS SELECTED FOR TWO STRAIGHTFORWARD REASONS: (1) IT IS A MEDICALLY NEUTRAL POINT IN ONE'S LIFE, THEREBY REDUCING THE PROBLEM OF ADVERSE SELECTION IN THE LONG-TERM CARE PROGRAM; AND (2) IT IS THE TIME IN ONE'S LIFE AT WHICH PERSONAL FINANCIAL PLANNING NEEDS MIGHT CHANGE.

HOWEVER, IN LIGHT OF THE INTEREST THAT HAS BEEN DEMONSTRATED IN LONG-TERM CARE POLICIES BY INDIVIDUALS UNDER AGE 50 IN THE PRIVATE SECTOR, I BELIEVE S. 38 ENROLLMENT CRITERIA SHOULD BE BROADENED TO GIVE EMPLOYEES UNDER AGE 50 THE OPTION TO PARTICIPATE IN THE LONG-TERM CARE BENEFIT AT GROUP RATES. THE CONVERSION OPTION, HOWEVER, WOULD REMAIN OPEN TO EMPLOYEES OVER AGE 50 WITH 10 YEARS FEGLI PARTICIPATION.

THE INNOVATIVE FINANCING METHOD EMBODIED IN THIS LEGISLATION - CONVERSION OF LIFE INSURANCE TO LONG-TERM CARE COVERAGE - IS BASED ON A VERY SIMPLE IDEA. WHEN A YOUNG BREADWINNER SELECTS AMONG EMPLOYER-OFFERED BENEFIT OPTIONS, HE OR SHE MOST LIKELY WILL BUY LIFE INSURANCE IN ORDER TO PROVIDE SECURITY TO A YOUNG FAMILY. BUT, ONCE THE CHILDREN ARE GROWN AND INDEPENDENT, THAT EMPLOYEE BEGINS TO WORRY ABOUT HIS OR HER OWN INDEPENDENCE IN OLD AGE, AND ABOUT BECOMING A BURDEN TO THOSE CHILDREN.

THE PROPOSAL RECOGNIZES THAT AN INDIVIDUAL'S NEEDS AND PRIORITIES CHANGE WITH AGE. AS ONE AGES, THE NEED FOR A LARGE AMOUNT OF LIFE INSURANCE COVERAGE DECREASES AND THE NEED FOR PROTECTION FROM THE COSTS ASSOCIATED WITH LONG-TERM CARE INCREASES. S. 38 GIVES FEDERAL EMPLOYEES THE FLEXIBILITY TO RESPOND TO CHANGING LIFE CIRCUMSTANCES.

MUCH OF THE ATTENTION HAS BEEN FOCUSED ON THE LIFE INSURANCE CONVERSION OPTIONS OFFERED BY S. 38. WHILE THIS IS NOT SURPRISING, SINCE CONVERSION REPRESENTS AN INNOVATIVE MEANS OF FINANCING LONG-TERM CARE COVERAGE, THE ATTENTION ON THE CONVERSION OPTION HAS LEFT THE MISTAKEN IMPRESSION THAT FEDERAL EMPLOYEES MUST EXCHANGE THEIR LIFE INSURANCE FOR LONG-TERM CARE COVERAGE.

TWO POINTS ON THIS MATTER NEED TO BE MADE: (1) CONVERSION IS AN OPTION TO BE ELECTED BY THE EMPLOYEE; IT IS NOT A MANDATE; AND (2) THE EXERCISE OF THE CONVERSION OPTION DOES NOT IN ANY WAY EFFECT THE FEGLI PROGRAM AND FEGLI BASIC PREMIUMS. THIS IS BECAUSE THE AMOUNT TRANSFERRED FROM FEGLI TO LONG-TERM CARE EQUALS THE VALUE OF BASIC FEGLI FORFEITED IN FUTURE YEARS.

IN SHORT, MR. CHAIRMAN, THIS LEGISLATION OFFERS FEDERAL EMPLOYEES OPTIONS AND OPPORTUNITIES, NOT OBLIGATIONS. S. 38 PROVIDES AN IMPORTANT NEW BENEFIT OPTION AND AN INNOVATIVE WAY TO HELP FINANCE IT. FURTHER, MY BILL EXPEDITES THE PROCESS OF MAKING LONG-TERM CARE COVERAGE AVAILABLE TO A BROAD SPECTRUM OF AMERICANS.

HOW, ONE MIGHT ASK, CAN A PROPOSAL TARGETING FEDERAL EMPLOYEES HELP THE GENERAL PUBLIC? QUITE SIMPLY, A POOL OF 3.1 MILLION ACTIVE FEDERAL WORKERS OFFERS A TEMPTING INCENTIVE FOR INSURANCE CARRIERS TO DEVELOP COMPETITIVE LONG-TERM CARE INSURANCE PRODUCTS. ROUGHLY 690,000 FEDERAL EMPLOYEES PLUS THEIR SPOUSES WOULD BE IMMEDIATELY ELIGIBLE FOR THE LONG-TERM CARE BENEFIT.

BY TAKING THE LEAD TO CREATE A MARKET IN THIS EMERGING AREA, THE FEDERAL GOVERNMENT CAN CREATE A LONG-TERM CARE "DOMINO EFFECT." MORE INSURANCE CARRIERS WILL ENTER THE MARKET TO COMPETE FOR THE OPM CONTRACT. IN ORDER TO WIN THIS COMPETITION, INSURERS WILL HAVE TO OFFER GREATLY IMPROVED INSURANCE PACKAGES, BOTH IN TERMS OF PRICE AND QUALITY. AS

LONG-TERM CARE PRODUCTS IMPROVE, STATE AND LOCAL GOVERNMENTS AND LARGE EMPLOYERS LIKE THE UNIVERSITY OF CALIFORNIA, GENERAL MOTORS AND AT&T WILL BE ENCOURAGED TO PROVIDE A NEW OR CONVERTIBLE LONG-TERM CARE BENEFIT, SIMILAR TO OPM'S, TO THEIR EMPLOYEES.

IN SHORT, THE OPM PROGRAM CAN SERVE AS A MODEL TO BE REPLICATED THROUGHOUT THE PRIVATE AND PUBLIC SECTORS, THEREBY MAKING LONG-TERM CARE INSURANCE AVAILABLE TO THE MIDDLE CLASS AND TAKING IT OUT OF THE REALM OF A BENEFIT ONLY AVAILABLE TO THE WEALTHY.

MR. CHAIRMAN, IT IS INCREASINGLY APPARENT THAT MEANINGFUL SOLUTIONS TO THE PROBLEM OF FINANCING LONG-TERM CARE CANNOT BE ACHIEVED WITHOUT SUBSTANTIAL PARTICIPATION BY THE PRIVATE SECTOR. CURRENTLY, HOWEVER, CONGRESS DOES NOT HAVE A CONCRETE UNDERSTANDING OF HOW FAR THE PRIVATE SECTOR CAN GO TO MEET FUTURE LONG-TERM CARE NEEDS.

WHILE MORE THAN 1.3 MILLION AMERICANS NOW HAVE LONG-TERM CARE INSURANCE, A NUMBER OF FACTORS HAVE CLOUDED THE FUTURE OF THE LONG-TERM CARE MARKET. THE TAX TREATMENT OF LONG-TERM CARE PRODUCTS AND OF INNOVATIVE FINANCING MECHANISMS SUCH AS CONVERSION OF LIFE INSURANCE TO LONG-TERM CARE COVERAGE REPRESENT SUCH CLOUD. IN THIS REGARD, CLARIFICATION OF CURRENT LAW WITH RESPECT TO THE TAX TREATMENT OF LONG-TERM CARE POLICIES WOULD BE HELPFUL IN STIMULATING BOTH THE DEVELOPMENT AND PURCHASE OF LONG-TERM CARE PRODUCTS. IN PARTICULAR, I BELIEVE CONVERSION OF LIFE INSURANCE BENEFITS TO LONG-TERM CARE HEALTH INSURANCE SHOULD BE TREATED AS A TAX-FREE EXCHANGE.

IN VIEW OF THE SIGNIFICANCE OF THESE TAX ISSUES, I AM TROUBLED BY THE DEPARTMENT OF TREASURY'S DELAY IN SUBMITTING A CONGRESSIONALLY-MANDATED STUDY OF FEDERAL TAX POLICIES TO PROMOTE PRIVATE FINANCING OF LONG-TERM CARE INSURANCE. THIS STUDY WAS REQUIRED BY THE MEDICARE CATASTROPHIC COVERAGE ACT AND IS TO IDENTIFY ALTERNATIVE METHODS OF CREATING TAX INCENTIVES TO ENCOURAGE INDIVIDUALS TO PURCHASE LONG-TERM CARE COVERAGE. DESPITE A NOVEMBER, 1988 DEADLINE, THE TREASURY DEPARTMENT HAS YET TO SUBMIT THIS STUDY TO CONGRESS.

WHAT HAS BEEN HEARD FROM TREASURY AND THE COUNCIL OF ECONOMIC ADVISORS IS A LIST OF UNRESOLVED TAX ISSUES RELATED TO LONG-TERM CARE PRODUCTS AND FINANCING MECHANISMS. IF TREASURY IS NOT WILLING OR ABLE TO MAKE RECOMMENDATIONS FOR APPROPRIATE CHANGES IN FEDERAL LAW TO PROMOTE LONG-TERM CARE, CONGRESS CAN RESOLVE THE MATTER.

CLEARLY, PRIVATE SECTOR LONG-TERM CARE INSURANCE WILL NOT REACH EVERYONE IN NEED OF COVERAGE. THE PUBLIC SECTOR'S ROLE, HOWEVER, REMAINS ILL-DEFINED. WHILE CONGRESS AND THE PEPPER COMMISSION LABOR OVER THE APPROPRIATE PUBLIC SECTOR RESPONSE TO THE LONG-TERM CARE PROBLEM, WE CAN AND MUST MOVE FORWARD WITH PROPOSALS SUCH AS S. 38 TO PROMOTE THE PRIVATE SECTOR'S ROLE.

MR. CHAIRMAN, ALL OF US HERE TODAY KNOW THE URGENCY OF FINDING WAYS TO MAKE AFFORDABLE, QUALITY LONG-TERM CARE COVERAGE AVAILABLE TO AMERICANS WHO NEED IT. AS OUR POPULATION AGES AND THE NEED FOR LONG-TERM CARE INCREASES, THE IMPERATIVE TO FIND INNOVATIVE PRIVATE/PUBLIC SOLUTIONS BECOMES GREATER.

MY LEGISLATION IS NOT A PANACEA TO THE NATION'S LONG-TERM CARE PROBLEM. IT IS NOT A SOLUTION TO THE PROBLEM OF FINANCING LONG-TERM CARE BENEFITS. S. 38 IS, HOWEVER, AN INNOVATIVE AND COST-EFFECTIVE MEANS OF PROVIDING FEDERAL EMPLOYEES WITH AN IMPORTANT NEW LONG-TERM CARE BENEFIT OPTION AND EXPANDING LONG-TERM CARE INSURANCE PRODUCTS AND INCREASING THEIR AVAILABILITY TO THE GENERAL PUBLIC.

EACH DAY COUNTLESS AMERICANS ENTER NURSING HOMES TERRIFIED THEY WILL QUICKLY DRAIN THEIR SAVINGS AND THREATEN THE FINANCIAL SECURITY OF THEIR LOVED ONES. WE CANNOT AFFORD UNNECESSARY DELAYS IN FINDING A SOLUTION TO THE TRUE MEDICAL CATASTROPHE THAT WILL CONFRONT SO MANY AMERICANS: LONG-TERM CARE.

STATEMENT BY
HONORABLE CONSTANCE BERRY NEWMAN
DIRECTOR, OFFICE OF PERSONNEL MANAGEMENT

before the

SUBCOMMITTEE ON FEDERAL SERVICES, POST OFFICE AND
CIVIL SERVICE
COMMITTEE ON GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

on

LONG-TERM CARE INSURANCE FOR FEDERAL EMPLOYEES

November 2, 1989

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE:

I AM VERY PLEASED TO JOIN YOU TODAY TO DISCUSS S. 38, THE "FEDERAL EMPLOYEES LONG-TERM CARE INSURANCE ACT OF 1989." THIS BILL CONTEMPLATES MAKING A NEW EMPLOYEE BENEFIT PROGRAM AVAILABLE TO THE FEDERAL WORKFORCE ON A COMPLETELY VOLUNTARY, INSURED BASIS WHICH WOULD INVOLVE NO NEW FEDERAL FUNDING. THE NEW PROGRAM WOULD HELP FEDERAL EMPLOYEES FINANCE LONG-TERM CARE (LTC) EXPENSES, FOR EITHER EXTENDED PERIODS OF NURSING HOME CONFINEMENT OR SIMILAR HOME HEALTH SERVICES, WHICH THEY MAY REQUIRE IF CHRONIC, DEBILITATING ILLNESSES, SUCH AS OFTEN ACCOMPANY ADVANCED AGE, MAKE IT IMPOSSIBLE TO CARRY ON ESSENTIAL DAILY LIVING ACTIVITIES INDEPENDENTLY.

S. 38 WOULD AMEND THE FEDERAL EMPLOYEES' GROUP LIFE INSURANCE (FEGLI) LAW TO PROVIDE BASIC AUTHORITY FOR OPM TO ENTER INTO CONTRACTS WITH THE INSURANCE INDUSTRY FOR PURPOSES OF MAKING LTC COVERAGE AVAILABLE TO FEDERAL EMPLOYEES ON A GROUP BASIS.

MOREOVER, THE BILL WOULD OFFER FEGLI PARTICIPANTS AN OPPORTUNITY, AS THEY APPROACH THEIR MATURE YEARS AND FAMILY RESPONSIBILITIES DECLINE, TO "TRADE IN" A PORTION OF THE FACE VALUE OF THEIR BASIC LIFE INSURANCE COVERAGE TO PERMIT PURCHASE OF LTC INSURANCE AT A REDUCED PREMIUM.

THE AMENDED FEGLI LAW WOULD SET FORTH CRITERIA FOR ENROLLEE AND INSURER PARTICIPATION IN THE LTC PROGRAM, A DEFINITION ESTABLISHING THE PARAMETERS OF POSSIBLE LTC INSURANCE BENEFITS, AND FINANCING METHODS, LEAVING OPM BROAD DISCRETION TO DEVELOP THE SPECIFIC DETAILS OF PROGRAM BENEFITS, PREMIUM CHARGES, AND ADMINISTRATION THROUGH REGULATION AND NEGOTIATION WITH PARTICIPATING INSURERS. THIS FLEXIBILITY IS ESPECIALLY DESIRABLE, GIVEN THE RELATIVELY SHORT SPAN OF EXPERIENCE WITH LTC INSURANCE PRODUCTS AND THE LIKELIHOOD THAT THERE WILL BE ONGOING EVOLUTION IN THE FUTURE, MAKING PROGRAM REVISION AND ADJUSTMENT DESIRABLE.

THE NEW FEDERAL EMPLOYEES LTC PROGRAM WOULD WORK AS FOLLOWS:

- o INITIALLY, ONLY THOSE WHO HAVE ATTAINED AGE 50 WOULD BE ELIGIBLE TO ENROLL; AFTER 5 YEARS OF PROGRAM EXPERIENCE, OPM REGULATIONS COULD PRESCRIBE CONDITIONS UNDER WHICH YOUNGER EMPLOYEES MAY ENROLL.

- AS SOON AS EMPLOYEES ARE AGE 50 AND HAVE A MINIMUM OF 10 YEARS OF FEGLI PARTICIPATION, THEY COULD ELECT TO TRADE IN A SPECIFIED PORTION OF BASIC GROUP LIFE INSURANCE, AS DETERMINED BY OPM REGULATIONS (E.G., $25,000), FOR LTC COVERAGE. [EMPLOYEES COULD ALSO ELECT LTC COVERAGE WITH NO FEGLI PARTICIPATION, OR NO TRADE-IN, AT LESS FAVORABLE PREMIUM RATES.] SPOUSAL LTC COVERAGE WOULD ALSO BE AVAILABLE, SIMULTANEOUSLY WITH THE EMPLOYEE'S OWN ELECTION OR UPON SUBSEQUENT MARRIAGE, FOR AN ADDITIONAL PREMIUM CHARGE.

- IF AN EMPLOYEE ELECTS FEGLI CONVERSION, THE USUAL GOVERNMENT CONTRIBUTION AND ACCUMULATED RESERVE FUNDS ASSOCIATED WITH THE CONVERTED FEGLI PARTICIPATION WOULD BE RECHANNELED TO FUND LTC COVERAGE. EMPLOYEES WITH LTC COVERAGE WOULD PAY AN AGE-ADJUSTED LTC PREMIUM EACH PAY PERIOD, TOGETHER WITH THE EMPLOYEE CONTRIBUTION FOR EACH REMAINING $1,000 OF BASIC LIFE INSURANCE. THIS PREMIUM WOULD BE BASED ON AGE AT TIME OF ELECTION AND WHETHER OR NOT THE FEGLI TRADE-IN APPLIES, AND COULD BE SIGNIFICANTLY HIGHER THAN THE PREVIOUS FEGLI PREMIUM PAID BY THE EMPLOYEE, DEPENDING ON THE COST OF COVERAGE OF THE PARTICULAR LTC PLAN CHOSEN BY THE EMPLOYEE. THE TOTAL AMOUNT OF THE GOVERNMENT CONTRIBUTION PER EMPLOYEE WOULD NOT

CHANGE FROM THE PREVIOUS FEGLI CONTRIBUTION. EMPLOYEES EXERCISING THE CONVERSION OPTION WOULD ALWAYS RETAIN A MINIMUM OF $2,000 IN BASIC LIFE INSURANCE COVERAGE.

- AN EMPLOYEE WHO TRADES BASIC FEGLI FOR LTC PURPOSES WOULD BE ELIGIBLE SIMULTANEOUSLY TO INCREASE OPTIONAL FEGLI COVERAGE WITHOUT EVIDENCE OF INSURABILITY.

- THE LTC PROGRAM WOULD PAY INSURED INDIVIDUALS DAILY BENEFITS IN ESTABLISHED DOLLAR AMOUNTS TO OFFSET EXPENSES FOR NURSING HOME CONFINEMENTS OR ALTERNATIVE HOME CARE ARRANGEMENTS FOR A MINIMUM DURATION OF AT LEAST ONE YEAR. (MULTIPLE BENEFIT PACKAGES COULD BE OFFERED.)

- LTC PREMIUM AND BENEFIT AMOUNTS WOULD BE ESTABLISHED BY OPM AND AUTOMATICALLY ADJUSTED IN ACCORDANCE WITH THE AVERAGE PERCENTAGE OF EACH GENERAL SCHEDULE PAY INCREASE. FURTHER AD HOC ADJUSTMENTS, BASED ON THE EXPERIENCE OF THE GROUP AND THE NEED TO MAINTAIN REASONABLE LEVELS OF REIMBURSEMENT, COULD BE PRESCRIBED BY OPM REGULATIONS.

- THE PROGRAM WOULD BE ADMINISTERED THROUGH COMPETITIVE CONTRACTS WITH PRIVATE SECTOR INSURANCE COMPANIES.

THERE ARE A NUMBER OF OBSERVATIONS WE WOULD LIKE TO MAKE ABOUT THIS APPROACH TO FINANCING LTC FOR FEDERAL EMPLOYEES:

- BY BUILDING ON AN EXISTING PROGRAM, WE WOULD AVOID SOME OF THE COSTS AND DELAYS ASSOCIATED WITH CREATING A NEW BENEFIT PROGRAM.

- AN EMPLOYEE'S NEED FOR LIFE INSURANCE DIMINISHES WITH AGE AS HIS OR HER NEED FOR LONG-TERM CARE PROTECTION INCREASES, SUGGESTING THAT A TRADE-OFF MAY BE OF INTEREST TO MANY EMPLOYEES. NINETY PERCENT OF FEDERAL EMPLOYEES PARTICIPATE IN OUR LIFE INSURANCE PROGRAM AND 630,000 WOULD BE IMMEDIATELY ELIGIBLE TO CONVERT BASIC FEGLI FOR LONG-TERM CARE INSURANCE PURPOSES UNDER THIS PROPOSAL.

- ADVANCED FUNDING, WITH PEOPLE PAYING PREMIUMS YEARS BEFORE THEY EXPECT TO NEED THE SERVICE, WOULD KEEP THE COST OF COVERAGE WITHIN THE REACH OF MOST FEDERAL EMPLOYEES. EVEN IF AN EMPLOYEE DECLINED FEGLI CONVERSION FOR PURPOSES OF RECEIVING A MODERATE REDUCTION IN LTC PREMIUMS, THE FULL GROUP PREMIUM RATES

WOULD BE LOWER THAN THE COST OF AN INDIVIDUAL LTC POLICY.

- ALTHOUGH S. 38 CONTEMPLATES USING INCREASES IN THE GENERAL SCHEDULE FEDERAL PAY SCALE AS THE BASIC INDEX FOR ADJUSTING LTC PREMIUM RATES AND BENEFITS, SOME OTHER INDEX MORE CLOSELY RELATED TO CHANGES IN THE COST OF LONG-TERM CARE MIGHT BE CONSIDERED.

- THE PROPOSAL IS FULLY CONSISTENT WITH THE ADMINISTRATION'S COMMITMENT TO RELY, WHEREVER FEASIBLE, ON EXISTING PRIVATE SECTOR SERVICES AND CAPABILITIES, RATHER THAN DUPLICATE THEM IN THE GOVERNMENT.

- THE PROPOSAL NEEDS TO BE EVALUATED NOT ONLY FROM THE PERSPECTIVE OF FEDERAL EMPLOYEES, BUT ALSO FROM THE BROADER PERSPECTIVE OF WHETHER IT WOULD SERVE AS A USEFUL MODEL FOR ADDRESSING CONCERNS OVER LONG-TERM CARE NEEDS FOR SOCIETY IN GENERAL.

- TREASURY OFFICIALS CAUTION THAT THE CONVERSION OF ACCUMULATED FEGLI RESERVES FOR PURCHASING LTC COVERAGE, THE ONGOING GOVERNMENT CONTRIBUTIONS TO LTC PREMIUMS, AND THE LTC BENEFITS THEMSELVES MAY BE

> TAXABLE IN WHOLE OR PART TO AN EMPLOYEE, DEPENDING ON INDIVIDUAL CIRCUMSTANCES.

WE ALL RECOGNIZE THAT IF THE GOVERNMENT EXPECTS TO SUCCESSFULLY STAFF ITS VARIOUS AGENCIES IN THE COMING DECADES, WE MUST OFFER BENEFITS COMPETITIVE WITH THOSE AVAILABLE IN OTHER SEGMENTS OF OUR ECONOMY. AS A RESPONSIBLE EMPLOYER, WE ARE ALSO INTERESTED IN ENSURING THAT OUR EMPLOYEES HAVE ACCESS TO MEANINGFUL AND EFFECTIVE BENEFIT PROGRAMS TO ASSIST THEM IN ESTABLISHING REASONABLE FINANCIAL SECURITY. TO THESE ENDS, WE ARE CURRENTLY IN THE PROCESS OF REVIEWING MOST MAJOR FEDERAL EMPLOYEE BENEFIT PROGRAMS. GIVEN THE SIZE OF THESE PROGRAMS AND THE COMPLEXITY OF THE GOVERNING LAWS, HOWEVER, ANY FUNDAMENTAL CHANGES NECESSARILY REQUIRE A CAUTIOUS, DELIBERATIVE APPROACH. I LOOK FORWARD TO A COOPERATIVE RELATIONSHIP WITH CONGRESS IN THIS PROCESS.

THANK YOU. I WILL BE HAPPY TO RESPOND TO ANY QUESTIONS THE SUBCOMMITTEE MAY HAVE.

UNITED STATES
OFFICE OF PERSONNEL MANAGEMENT
WASHINGTON, D.C. 20415

OFFICE OF THE DIRECTOR

OCT 10 1989

Honorable David Pryor
Chairman, Subcommittee on Federal Services,
Post Office and Civil Service
Committee on Governmental Affairs
United States Senate
Washington, DC 20510-6250

Dear Senator Pryor:

Thank you for your recent letter concerning your Subcommittee's upcoming hearing on S. 38, the "Federal Employees Long-term Care Insurance Act of 1989." We are providing the enclosed information, in response to the questions raised in your letter, concerning potential long-term care beneficiaries under S. 38 and the implications of the proposed coordination of LTC insurance with the Federal Employees' Group Life Insurance Program.

I will be pleased to appear at the Subcommittee's hearing on November 2, and look forward to working with you on this important issue.

Sincerely,

Constance Berry Newman
Director

Attachments

1. Q. How many Federal employees carry basic life insurance coverage under FEGLI? Please provide a breakdown of participants by 5-year age increments. Looking at retirement data from 1985 to 1988, how many employees retained their basic insurance at retirement? How many dropped it? If this bill became law today, how many employees would be eligible to choose this new option?

A. As of March 30, 1989, there are 2,687,000 Federal employees who have basic life insurance coverage under FEGLI. A breakdown of this number into 5-year age increments is as follows:

Age	Number
< 20	3,300
20-24	73,200
25-29	238,900
30-34	357,000
35-39	442,600
40-44	469,500
45-49	362,300
50-54	318,900
55-59	248,200
60-64	128,700
> 65	44,400
Total	2,687,000

With respect to retired employees, the following table summarizes the numbers added to the annuity roll since 1985 and the percentage of those retirees who have FEGLI:

Fiscal Year	Number of Retirees	Percent with FEGLI
1988	106,358 (approx.)	92.7
1987	69,689	92.0
1986	92,072	90.9
1985	88,174	91.1

Our data is not maintained in a format that would enable us to count the number of employees who carry FEGLI while working but drop the coverage upon retirement.

If S. 38 became law today, approximately 630,000 employees would be eligible to exercise the FEGLI conversion option for purposes of acquiring long-term care insurance.

2. Q. Basic life insurance costs are shared, except in the case of the U.S. Postal Service which pays the entire cost. While retirees now receive free life insurance from the date of retirement until age 65, beginning in January 1990 retirees will be required to pay their basic insurance premium until they attain age 65. Do you have projections on the number of annuitants who may drop their basic coverage because of this change? What is the average amount which FEGLI pays out to an annuitant claim under the basic insurance plan?

A. The average age of a Federal employee at retirement is approximately 61 years, and the average insurance-in-force for this individual is approximately $37,000. If retirement occurs after 1989, this average annuitant will have to pay premium contributions for 4 years, until age 65; the total amount paid each year would be approximately $180. Given that the annuitant's minimum death benefit, assuming average FEGLI coverage of $37,000, will be $9,250 and that the annuitant would have to pay considerably more in the private sector for comparable coverage, it is unlikely that many annuitants will drop this coverage.

In fiscal year 1989, the average amount that FEGLI is paying out for all annuitant claims under the basic program is approximately $9,300. This average reflects cases in which death occurs before the post-age-65 reduction begins, as well as those in which retirees have elected to pay additional premiums to avoid the standard reduction to 25 percent of insurance-in-force at time of retirement.

3. Q. Under S. 38, the employee would pay an additional long-term care premium and the Government would redirect the premium it pays for total basic coverage to the long-term option. Employees or annuitants would also be responsible for paying LTC premiums during all periods in which coverage continues. Assuming that annuitants would want to continue their coverage indefinitely, does the Government contribution as well as the annuitant contribution end at age 65? If so, will the extra LTC premium alone be sufficient to provide a meaningful benefit?

A. Each individual who elects long-term care (LTC) coverage will be responsible for LTC premium withholdings from salary or annuity as long as the enrollment continues (unless a particular LTC policy provides for waiver of premiums when an individual is receiving LTC benefits). Individual LTC withholding rates will be actuarially determined, taking into account the employee's age at time of enrollment, and whether or not the FEGLI conversion option is exercised, so that the rates will result in adequate reserves to fully cover projected LTC benefit costs and administrative expenses over the lifespan beyond age 50.

If FEGLI conversion is exercised for LTC purposes, the Government would continue to pay its usual contribution under the FEGLI law for the basic insurance amount corresponding to the employee's annual rate of basic pay, but that portion of the contribution associated with the LTC conversion requirement, as well as reserve fund accumulations attributable to such requirement, would be allocated to a separate LTC account in the Employees' Life Insurance Fund. An employee who elects FEGLI conversion would subsequently be responsible for basic FEGLI withholdings only for each $1,000 of basic coverage in excess of the LTC conversion. Once an employee has retired and attained age 65, Government FEGLI contributions (whether applied to basic life insurance or LTC coverage) would cease, as would regular employee withholdings for basic life insurance not affected by LTC conversion.

4. Q. To keep the LTC premiums low, the bill proposes to move the reserves in the life insurance fund associated with the employee's contribution to the long-term care reserves. Would this transfer cause the FEGLI basic premiums to increase over a 10-year period?

A. The FEGLI reserves which will be transferred to the LTC account when an employee exercises the conversion option are associated with both employee and Government contributions. Since the amount of such transfer exactly equals the value of basic FEGLI forfeited for future years, this will have no effect on FEGLI premiums.

5. Q. One of the most important elements of a long-term care program is the range of services to be covered. However, S. 38 does not specify the benefits, but rather will depend on a bidding and negotiation process to be conducted by OPM. Can you describe the LTC plan which OPM envisions?

A. The bill allows for more than one alternative design of long-term care coverage. A description of a minimum package which we believe may be offered is as follows:

- Coverage of nursing home confinement for up to 1,095 days after a deductible has been met, e.g., elimination of first 90 days of nursing home confinement. Benefit may be taken in an equivalent number of home health visits or a combination of nursing home days and home health visits.

- Benefit reimbursement rates would be set at $44 per nursing home day or $22 per home visit in 1989 and indexed to subsequent General Schedule salary increases.

- Benefit eligibility determinations will be based upon a standardized measure of biological and psychosocial function, such as the Katz index of independence in bathing, dressing, toileting, transfer, continence, and feeding. Additionally, coverage will be offered if substantial daily supervision is required because of mental impairment.

6. Q. To illustrate how this approach to financing and delivering long-term care services will work, please develop some hypothetical cases involving Federal employees who convert to LTC insurance and use it for extended stays in a nursing home 20 or 30 years later.

A. Assume, for example, that a plan is offered in 1989 with indexed benefits of $43 per day in a nursing home and indexed premiums of $12 biweekly. Assume General Schedule increases are 4 percent per year.

(1) In 1989, an employee age 50 elects LTC and commences paying premiums of $12 biweekly (benefits and premiums increase with subsequent General Schedule increases). At age 79, the retiree enters a nursing home and, after a 90-day deductible period ends, receives benefits for 600 days. On becoming eligible to receive LTC benefits, premium payments cease. Total premium payments to that date have totalled about $17,000. Benefits will commence at $134 per day and they will total about $82,000.

(2) In 1989, an employee age 50 elects LTC. At age 60, the retiree receives 100 days of home care benefits. Premium payments to that date total about $9,000. Benefits received total about $4,500. Following recovery, premium payments resume for 15 years until admission to a nursing home at age 84. An additional $14,000 in premiums are paid. Daily benefits of $163 continue for 300 days totalling about $49,000.

7. Q. Regarding policies that combine a long-term care benefit with traditional life insurance, has the Internal Revenue Service ruled how the benefit paid to the beneficiary would be taxed?

A. We are not aware of any IRS rulings regarding benefits similar to the one we plan to offer.

UNITED STATES
OFFICE OF PERSONNEL MANAGEMENT
WASHINGTON, D.C. 20415

OFFICE OF THE DIRECTOR

FEB 1 - 1990

Honorable David Pryor
Chairman, Subcommittee on Federal Services,
  Post Office and Civil Service
Committee on Governmental Affairs
United States Senate
Washington, D.C. 20510-6250

Dear Senator Pryor:

I very much appreciated the opportunity to appear at your November 2nd hearing on S. 38, the "Federal Employees Long-Term Care Insurance Act of 1989." Our responses to your follow-up questions are enclosed.

I look forward to continuing to work with you on this important issue.

Sincerely,

Constance Berry Newman
Director

Enclosure

QUESTIONS FOR HONORABLE CONSTANCE BERRY NEWMAN, DIRECTOR OF OPM, FROM SENATOR DAVID PRYOR:

1. Q. I understand that the Office of Management and Budget has had problems with the bill. Could you elaborate on these problems?

   A. Primarily, the Administration as a whole--not just OMB--is reluctant to endorse a major expansion of long-term care (LTC) insurance pending policy decisions about whether such products merit the same preference under the Federal tax code as is provided for health and life insurance policies and, if so, how to absorb the associated loss of tax revenue. The Congress has directed the Treasury Department to conduct a study of Federal tax policies in this area, and it is certainly reasonable to wait for the conclusion of this study.

   Furthermore, there are questions as to whether the proposal to index LTC benefits and premium charges to increases in the General Schedule (GS) pay scale is too conservative and whether the proposed life insurance conversion option would produce a worthwhile benefit trade-off in view of the modest reserve funds allocated to support each employee's life insurance coverage. As I mentioned in my statement, consideration could be given to an inflation indexing approach more closely related to changes in the cost of LTC services, in lieu of relying on GS pay adjustments as S. 38 proposes.

   The value of the life insurance conversion option would be likely to depend on each employee's family situation. Even allowing for election of standard LTC coverage utilizing the conversion option, an employee would pay an LTC premium moderately higher than the individual contribution formerly associated with the life insurance conversion amount. If enhanced LTC coverage were chosen, the associated premium might be significantly higher than previous life insurance contributions.

2. Q. Can you tell us what benefits a participant might expect under your current thinking for a long-term care plan? What type of deductible and approximately how much of the total cost of daily care will this cover?

   A. The bill allows for more than one alternative design of long-term care coverage. A description of a minimum package which might be offered under S. 38 is as follows:

- Coverage of nursing home confinement for up to 1,095 days after a deductible has been met, e.g., elimination of the first 90 days of nursing home confinement. Benefits could be taken in an equivalent number of home health visits or a combination of nursing home days and home health visits.

- Benefit reimbursement rates would initially be set at approximately two-thirds of the national average costs of a nursing home day or home health visit for the first year and thereafter be indexed to subsequent General Schedule salary increases.

- Benefit eligibility determinations would be based upon a standardized measure of biological and psychosocial function, such as the Katz index of independence in bathing, dressing, toileting, transfer, continence, and feeding. Additionally, coverage would be offered if substantial daily supervision is required because of mental impairment.

3. Q. Dr. Weiner suggests S. 38 needs flexibility, better inflation protection, and broader eligibility. How would such changes impact on actuarial and cost assumptions that OPM is employing? Would you support these changes?

A. If S. 38 were to become law, OPM would expect to contract for several long-term care (LTC) insurance plans. The additional plans would have no impact on the Federal budget because Government contributions toward any plan would always be limited to previously authorized contributions associated with group life insurance in cases in which an employee elects to convert a portion of basic life insurance coverage to LTC purposes. The cost of LTC enhancements--for example, more generous inflation indexing--would be fully borne by enrollees.

Broadening program eligibility to include employees below age 50 might be of dubious utility because use of LTC services is extremely low until ages 80 to 85 and LTC insurance products are still in their infancy stage. So, delaying enrollment until age 50 will afford ample opportunity to build adequate benefit reserves with moderate premium rates and will likely provide enrollees the benefit of more advanced policy innovations. S. 38, of course, would permit OPM to specify an age less than 50 as the minimum age for LTC insurance participation, if such action appears warranted after at least 5 years' program experience. Given the relatively short span of experience with LTC insurance products and the likelihood that there will be ongoing evolution for the foreseeable future, OPM believes that this type of caution seems warranted.

4. Q. Should we just offer a group policy and let individuals manage their own trade-offs between life insurance and other benefits and needs?

A. A stand-alone LTC insurance program is, of course, possible, but given current budgetary constraints, it is unlikely that any new Government funding for employee benefits could be supported. The proposed flexibility in S. 38 for Federal employees to rechannel existing Government contributions in response to changing benefit priorities would improve general access to a new benefit which many employees are increasingly recognizing as critically important to financial security in one's later years.

5. Q. What educational efforts are currently given to employees making decisions about their health and life insurance? Please describe the educational program that OPM must undertake to teach Federal employees abut long-term care options.

A. The head of each Federal agency is responsible for designating a Health and Life Insurance Officer and providing written notification to OPM's Retirement and Insurance Group of the officer's name. These officers function as an OPM contact for agencywide insurance matters. They periodically receive informational bulletins and training seminars through OPM. In addition, each agency is responsible for designating an insurance official at each employing office level who is charged with daily insurance program administration, including stocking and distributing any insurance forms and literature OPM prepares and explaining the program to employees and former spouses of employees. OPM provides technical assistance upon request and encourages agencies to develop counselling programs to meet the needs of their own employees, particularly newly-hired employees and those approaching retirement. OPM also provides informational brochures concerning post-retirement continuation of insurance coverage to accompany each retiree's initial annuity statement.

OPM and the respective insurance carriers jointly prepare brochures summarizing the Federal Employees' Group Life Insurance Program and each plan approved under the Federal Employees Health Benefits (FEHB) Program to explain each plan's benefits, limitations, and exclusions for current and potential enrollees.

Each fall, during the annual FEHB Open Enrollment Season, OPM also prepares an Enrollment Information Guide and Plan Comparison Charts which OPM furnishes to annuitants and which agencies distribute to active employees to assist in the selection of appropriate health insurance. At this time, each FEHB plan forwards a new health plan brochure to all current enrollees detailing the plan's benefits for the coming calendar year. Employing offices maintain a master file of the various FEHB plan brochures for employee reference. Annuitants are informed how to request brochures for review through their retirement system.

There is no doubt that the key to the success of any group insurance program is a high rate of participation among a large and diverse population. OPM would expect to undertake an intensive educational campaign, similar to efforts relied on for implementation of the 1986 Federal Employees Retirement System Act, featuring: wide distribution of literature on individual LTC risks and insurance program options, training sessions and counselling materials for agency personnel specialists, and news articles in employee publications to help individuals evaluate their personal situations.

6. Q. Do you think long-term care should be a part of a newly revised Federal Employees Health Benefits Program or a part of a flexible benefits program?

A. Regular health insurance is basically funded on a current, pay-as-you-go basis. Premiums are set at the start of a plan year to generate income sufficient to cover the anticipated claims and administrative expenses for the year, allowing for a certain percentage of very expensive claims. In contrast, long-term care services related to chronic illness typically result in very costly claims and existing LTC insurance policies are designed to foster gradual, advance funding over a number of years in order to keep premiums at an affordable level.

We are well aware of the need to modernize and make more flexible the benefit programs available to Federal employees and we are progressing towards that goal. However, for a number of reasons, we feel that the near-term introduction of a comprehensive cafeteria benefits plan in the Federal sector might not be feasible. For one thing, such a program, if applied to a population as large as the Federal workforce, could result in a very significant loss of tax revenue, undermining deficit reduction. Furthermore, the law and regulations governing cafeteria plans have been subjected to repeated change in recent years; no official policy has been determined concerning Federal tax treatment of long-term care insurance policies. Until this area of law stabilizes, OPM is reluctant to consider erecting upon it the huge systems necessary to cover the Federal workforce.

QUESTIONS FOR HONORABLE CONSTANCE BERRY NEWMAN, DIRECTOR OF OPM, FROM SENATOR PETE WILSON:

1. Q. Does S. 38 require Federal employees to give up their life insurance to obtain long-term care coverage?

A. Employees would have two options for participating in the proposed long-term care (LTC) program. Once employees satisfy the minimum age requirement, they could simply enroll for LTC coverage and begin paying an age-adjusted premium. Alternatively, employees who attain age 50 and have participated in the Federal Employees' Group Life Insurance (FEGLI) Program for at least 10 years, could elect to convert a portion of Basic FEGLI coverage (to be specified by OPM) for LTC purposes, so that FEGLI reserve funds and Government contributions associated with the conversion amount would apply toward reducing the individual's LTC premium rate. The law would preserve a minimum $2,000 of Basic life insurance coverage in all cases of conversion, to meet basic burial expenses. At the same time, OPM anticipates it would amend its FEGLI regulations so that conversion to LTC insurance would entitle FEGLI participants to an opportunity to simultaneously acquire or increase optional life insurance coverage.

2. Q. One area of authority granted to OPM by S. 38 relates to carrier selection and benefit design. The legislation envisions competition among insurers to determine one or more long-term care policies to be offered to Federal employees.

Does OPM intend to decide for itself what minimum levels of coverage will be included in the plans and then seek bids from qualified carriers accordingly? Or, does OPM intend to have no restrictions over benefit design and to allow carriers to offer whatever the carriers design as a proper benefit plan?

What range of services does OPM expect to be covered under the policies offered?

A. OPM would issue a Request-for-Proposals setting forth minimum standards for level and duration of LTC coverage (specifically, nursing home and home health care coverage). Carriers would be asked to price the stipulated coverages in terms of level, lifetime premiums based on age at entry and to suggest, and to price, enhancements. Enhancements could include such features as favorable conversion privileges, more generous indexation of benefits, variable waiting periods, trade-up opportunities for increased coverage, etc. Based on the competitive bidding, OPM would select several different benefit plans to be offered to Federal employees. The insurers would offer these plans to eligible employees for a period mutually agreed upon (probably 3 to 5 years), at which time the contract could be reviewed and the rate redetermined for new enrollees.

Employees who enrolled with a given insurer under a given plan would remain the responsibility of that insurer, regardless of whether the insurer's contract with OPM was renewed. The insurer would be at risk for the benefits due those individuals and could not terminate their coverage except for non-payment of premiums. Similarly, employees could not exchange coverage with one insurer for coverage with another. Rates and benefits could be modified only to the extent and in the manner prescribed in the initial offering.

A description of a minimum LTC benefit package which might be offered is as follows:

- o Coverage of nursing home confinement for up to 1,095 days after a deductible has been met, e.g., elimination of the first 90 days of nursing home confinement. Benefits could be taken in an equivalent number of home health visits or a combination of nursing home days and home health visits.
- o Minimum benefit reimbursement rates would have been approximately $44 per nursing home day or $22 per home visit if the program had been in effect this year, and these would be indexed to subsequent General Schedule salary increases.
- o Benefit eligibility determinations would be based upon a standardized measure of biological and psychosocial function, such as the Katz index of independence in bathing, dressing, toileting, transfer, continence, and feeding. Additionally, coverage would be offered if substantial daily supervision is required because of mental impairment.

3. Q. Under S. 38, Federal employees eligible for the long-term care benefit must be at least 50 years of age and have 10 years experience in the Federal life insurance program, FEGLI.

In light of the varying circumstances of Federal employees and the interest of younger employees in long-term care policies that private sector employers have seen, would OPM consider an option to allow employees over 40 to participate in the long-term care benefit at group rates, leaving the conversion option open to those over age 50 with 10 years FEGLI participation?

A. S. 38 would permit OPM to specify an age less than 50 as the minimum age for LTC insurance participation if such action appears warranted after at least 5 years' program experience. Given the relatively short span of experience with LTC insurance products and the likelihood that there will be ongoing evolution in the near future, this cautious, controlled extension is the responsible approach.

FAIR

FUND FOR ASSURING AN INDEPENDENT RETIREMENT

Vincent R. Sombrotto, Chairman

Sandra Sue Adams-Choate, Secretary

Member Organizations

- American Federation of Government Employees
- American Federation of State, County and Municipal Employees
- American Foreign Service Association
- American Postal Workers Union
- American Psychiatric Association
- Epsilon Sigma Phi
- Federal Executive and Professional Association
- Federal Managers Association
- Federally Employed Women
- Graphic Communications International Union
- International Association of Fire Fighters
- International Federation of Professional and Technical Engineers
- International Union of Operating Engineers
- Military Sea Transport Union SIU
- National Association of Air Traffic Specialists
- National Association of ASCS County Office Employees
- National Association of Federal Veterinarians
- National Association of Government Employees
- National Association of Letter Carriers
- National Association of Postal Supervisors
- National Association of Postmasters of the United States
- National Association of Retired Federal Employees
- National Federation of Federal Employees
- National Labor Relations Board Union
- National League of Postmasters of the United States
- National Postal Mail Handlers Union/LIUNA
- National Rural Letter Carriers Association
- National Treasury Employees Union
- Organization of Professional Employees of the Department of Agriculture
- Overseas Education Association/NEA
- Public Employee Department (AFL-CIO)
- Service Employees International Union

TESTIMONY OF VINCENT R. SOMBROTTO, CHAIR
FUND FOR ASSURING AN INDEPENDENT RETIREMENT

BEFORE

SUBCOMMITTEE ON FEDERAL SERVICES,
POST OFFICE AND CIVIL SERVICE
OF THE
SENATE COMMITTEE ON GOVERNMENTAL AFFAIRS

ON

LONG-TERM CARE INSURANCE
(S.38)

NOVEMBER 2, 1989

100 INDIANA AVENUE, N.W., ROOM 813 • WASHINGTON, D.C. 20001 • (202) 393-4695

Mr. Chairman and Subcommittee members: My name is Vincent R. Sombrotto. I am Chairman of the Fund for Assuring an Independent Retirement (FAIR), a 32-member organization which represents over six million active and retired Federal, postal and public employees.

The FAIR Organization strongly supports the concept of adequate long-term care (LTC) insurance for our members. The personal and financial crises created when an individual requires nursing home or home health care services could be alleviated through such insurance. Many of our members will need these services eventually, and we look forward to working with you to create such a program.

Currently, FAIR is working with the Pepper Commission as it develops LTC goals for all Americans. In addition, we are working with this Subcommittee as well as the House Post Office and Civil Service Committee to reform the Federal Employee Health Benefits Program. Conceivably, such reform could incorporate LTC needs into its overall package.

If there is any question as to the need for LTC benefits, one need only listen to the following projection: By the year 2,000 eight million Americans will need some form of long-term care. This represents an increase of over fifty percent since 1980. In addition, currently one-third of the Medicaid budget goes for nursing home care, which was not the original intent of the program. Such expenditures deplete federal health care monies away from where they are intended.

While we all agree as to the need for long-term care, I must caution that providing LTC must be done carefully and properly. We have outlined the following tenets for the appropriate establishment of LTC insurance:

Adequate Inflation Protection

A recent health care study discussed by the Pepper Commission gave the following projection: buying a $50-per-day plan, for two and one-half years of intermediate level care, 20 years from now, would leave an individual with $80,000 to $130,000 in out-of-pocket costs, depending on whether the coverage included inflation adjustments.

S.38 provides for automatic adjustments, but they are linked to projected salary increases for Federal employees. Mr. Chairman, we are all painfully aware of the decline in federal pay, which has failed to keep pace with the Consumer Price Index. In fact, the President's Pay Agent currently estimates that federal pay is 28.6% behind comparable private sector wages. Unless the Administration and Congress correct this pay crisis, any provision which indexes adjustments to federal pay guarantees failure for the new benefit program.

Furthermore, S.38 has a provision to allow for premium adjustments in excess of employee pay increases. This could trap participants in an increasingly expensive long-term care plan with no option other than cancelling coverage.

Affordable Premiums

Many Federal employees have suffered from dramatic increases in premiums in the Federal Employees Health Benefits Program. Such increases have vastly outstripped pay raises in each of the last three years. It is unrealistic to assume that much of this beleaguered workforce has the capacity to allocate $20 - $40 more per month in order to acquire LTC. However, some employees, presumably those earning higher wages, will be able to participate. Experts agree that the age at which the decision is made to buy LTC insurance is the most critical factor in determining premiums for that coverage. Thus, mandating age 50, as provided in S.38, will consign participants to unaffordably high premiums or affordable, low premiums with inadequate coverage.

According to the Health Insurance Association of America, the average age of individuals purchasing group LTC insurance is 40. Clearly there is growing interest in LTC at ages younger than 50. As there is no apparent reason for denying younger employees the right to participate, we recommend its inclusion in the plan.

Portability

With the development of the FERS, Congress recognized the growing trend toward benefit portability. An employee's ability to take a benefit to private employment would make the program more attractive, which is key to establishing a sufficient pool of participants to make the benefit meaningful.

Appropriate Level of Benefits

There is no incentive to invest in LTC insurance unless the promised benefits are adequate and appropriate to the value of the premiums paid. We find it difficult to comment on this issue in any detail since S.38 does not specify the benefit package.

However, if the legislation is based on the standards of the

National Association of Insurance Commissioners, we advise caution. Consumer Reports and other reliable health care industry monitors have expressed reservations about the adequacy of the model benefit package adopted by that organization. In fact, Consumer Reports enumerated, last year, the inadequacies of most policies on the market and refused to pick a "best buy," citing the high costs and/or limited coverage of available policies.

Coverage of Family Members

S.38 does not appear to provide coverage for family members other than spouses. FAIR believes that such coverage is an essential component of any LTC insurance program. A multitude of family situations exists in which LTC is required for various family members. Private group insurance policies currently marketed have responded to this growing need by providing coverage for active employees, spouses, dependents, parents and parents-in-law.

In that regard, the bill does not provide for current retirees. Current Federal and postal annuitants, like the rest of the population, need affordable LTC and we urge that any LTC program enacted would include them.

Appropriate Care Facilities

The most generous LTC insurance policy is of no value if the facilities are under-staffed, unsanitary or structurally unsound. The Pepper Commission is currently exploring methods to alleviate the problem. FAIR will closely monitor the Commission as it progresses on this and other important facets of LTC.

Education

Employees must be permitted to make educated decisions regarding any new benefits package, especially one such as this which can assume extraordinary importance. The purpose of such a program would be:

- to have an individual think about, at least periodically, what his future financial needs and responsibilities might be; and
- to place some current dollar value on those needs and to suggest ways to provide for them. The plan should carefully explain the level of benefits vis a vis current and projected costs of such services.

The experience in disseminating information for the Federal Employee Retirement System (FERS) program is instructive. As you may recall, original projections for transfer from the Civil Service Retirement System to FERS were approximately 40%. Only 2-3% actually made the switch.

There were two basic problems:

(1) Employees are, by and large, skeptical of the Office of Personnel Management's commitment to providing them with a sound benefit program. For whatever reason, there is a great mistrust of OPM; and,

(2) OPM's inability to communicate accurate information about FERS into the field.

S.38 does not curently provide for any education program for eligible participants. If this or any other LTC bill is enacted, the Federal Government must be required to undertake a comprehensive effort to provide relevant information to employees.

Employee Organization Participation

No benefit system can succeed without the active participation of employees and the organizations which represent them. FAIR believes strongly that an advisory council, perhaps similar to that which accompanies the FERS thrift board, should be established.

Mr. Chairman, we consider the previous eight tenets as fundamental to establishing a successful LTC insurance program. We do not think that S. 38 has adequately addressed them.

There is one point on which the bill is very specific: the age 50 once-in-a-lifetime conversion window. We have grave concerns about this portion of S.38 as well. Choosing between life and long term care insurance is risky for any individual. Lack of insurance in either of these two important areas can be devastating, particularly when there are small children and no significant savings or benefits provided. The prospect is even more dangerous for Federal employees as a group because of their relatively low compensation.

S.38 appears to presume that the children of employees would generally be independent once their parents reach age 50. There is no evidence to support this presumption.

Demographic trends indicate that the government will continue to hire an increasing number of women who are single heads of households, many of whom at age 50 will still be financially responsible for minor children. These individuals need life and LTC insurance to protect their families. The same scenario is applicable to many male employees who may have children from a second marriage. Neither group can afford to choose between the two types of coverage.

Mr. Chairman, the Congressional Research Service said, "As to precedence for life-to-LTC conversion we are not aware of any in private sector group plans." In light of the fact that the proposal outlined in S.38 is a radical departure from current employment practices, we cannot risk jeopardizing employees' future income and welfare without thorough knowledge of the consequences.

In closing, Mr. Chairman, employees' pay and benefits severely limit their options. Pay lags 28.6% behind the private sector. Federal health insurance lags $1100 annually behind the private sector. We cannot afford to establish a new benefit which perpetuates that gap. Also, we are in the midst of FEHB reform and comprehensive long-term care hearings by the Pepper Commission. It would be prudent to work in conjunction with those programs. For these and the reasons listed above, FAIR cannot support S.38 as drafted.

Thank you for the opportunity to testify. I will be glad to answer any questions you may have.

FAIR

FUND FOR ASSURING AN INDEPENDENT RETIREMENT

Vincent R. Sombrotto, Chairman

Sandra Sue Adams-Choate, Secretary

Member Organizations

American Federation of Government Employees
American Federation of State, County and Municipal Employees
American Foreign Service Association
American Postal Workers Union
American Psychiatric Association
Epsilon Sigma Phi
Federal Executive and Professional Association
Federal Managers Association
Federally Employed Women
Graphic Communications International Union
International Association of Fire Fighters
International Federation of Professional and Technical Engineers
International Union of Operating Engineers
Military Sea Transport Union SIU
National Association of Air Traffic Specialists
National Association of ASCS County Office Employees
National Association of Federal Veterinarians
National Association of Government Employees
National Association of Letter Carriers
National Association of Postal Supervisors
National Association of Postmasters of the United States
National Association of Retired Federal Employees
National Federation of Federal Employees
National Labor Relations Board Union
National League of Postmasters of the United States
National Postal Mail Handlers Union/LIUNA
National Rural Letter Carriers Association
National Treasury Employees Union
Organization of Professional Employees of the Department of Agriculture
Overseas Education Association/NEA
Public Employee Department (AFL-CIO)
Service Employees International Union

December 1, 1989

Senator David Pryor
U.S. Senate
Washington, DC 20510

Dear Senator Pryor:

In response to your request for additional comments on Long-Term Health Care, I have enclosed the answers to the questions you posed.

If I can be of any further assistance to you, please do not hesitate to let me know.

Sincerely,

Vincent R. Sombrotto

VINCENT R. SOMBROTTO
Chairman

100 INDIANA AVENUE, N.W., ROOM 813 • WASHINGTON, D.C. 20001 • (202) 393-4695

1. You state that in looking at reform of the Federal Employee Health Benefits Program, it could very well incorporate long-term care needs into its package. Do you feel this would be a better approach?

   Yes. Reform of FEHB should be looking long-term -- we are all hoping a package can be crafted that will be suitable for federal employees and retirees well into the future. While it may be premature to add long-term care benefits right now, they should be discussed in this context and the groundwork laid so that they can be added in the future. Furthermore, we eagerly anticipate The Pepper Commission's report due in March 1990. We would hope to integrate relevant parts of the report's recommendations into the federal-postal health structure.

2. You state that it has been estimated that federal pay is 28.6% behind private sector wages and that an index tied to federal pay guarantees failure for the new benefit program. What do you think would be a better way to address this provision?

   To be meaningful, health benefits that are intended to be used in the future must be indexed for the future. In this case, the only way long-term care benefits could be meaningful is if they are indexed according to health care inflation -- or at a minimum to the increase in the consumer price index. Indexing health care benefits on the basis of the federal pay raise guarantees disaster for a new long-term care benefit program.

3. Could you elaborate on what you call the "trapping" with respect to premium adjustments in excess of employee pay increases?

   Our concern is that provisions are made in the Wilson bill to increase premiums over and above the indexing amount when necessary for the stabilization of the program. With federal salary increases historically being held well below inflation, federal employees could well find themselves in a situation where they are unable to afford to continue their long-term care insurance benefit. The manner in which the Wilson bill is set up would require that they simply give up their long-term care benefit and they would have already given up their life insurance. All premiums that had been paid to date would be lost. The other potential problem is that the value of the long-term care benefits in this bill would be thoroughly inadequate.

4. How will mandating age 50 consign participants to either high premiums or inadequate coverage?

Mandating age 50 for participation in the program requires higher premiums than would be necessary if the age were set at 40, for example. At the same time, the 50 year old is required to give up his life insurance. With today's diverse lifestyles, we could not recommend to a 50 year "young" individual that life insurance is not needed. It seems to me that a better approach would be to allow participation at an early age where premiums can be kept low, life insurance trade offs become unnecessary and no one is forced to choose between high long-term care premiums or inadequate life insurance coverage. Furthermore, allowing more participation would increase the pool of contributors, which would help reduce premium costs.

5. What are some of the family situations in which long-term care is required for various family members, other than the participant or their spouse?

A review of many of the private and group policies currently on the market shows that one of their better features is coverage for parents and parents-in-law. Both Aetna and John Hancock currently have group policies on the market that cover the individual buying the policy, the spouse, dependents and parents and parents-in-law. Before a long-term care policy is designed for federal employees, I think it would be a good idea to review private sector policy provisions and to see how they have worked in practice. With the federal work force aging, and with their parents living longer, I think it is safe to say that many are concerned. Providing long-term care policy for federal employees should attempt to cover diverse situations such as these. Another difficult family situation is one where parents have handicapped children who need nursing home care.

NATIONAL ASSOCIATION OF RETIRED FEDERAL EMPLOYEES
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H. T. STEVE MORRISSEY, PRESIDENT
H. L. "RIP" RIPPLE, VICE PRESIDENT
HAROLD "HAL" PRICE, SECRETARY
BENNY L. PARKER, TREASURER

STATEMENT OF THE NATIONAL ASSOCIATION OF RETIRED FEDERAL EMPLOYEES BEFORE THE SUBCOMMITTEE ON FEDERAL SERVICES OF THE POST OFFICE AND CIVIL SERVICE SENATE COMMITTEE ON GOVERNMENTAL AFFAIRS ON S. 38 TO PROVIDE A FEDERAL EMPLOYEES LONG-TERM CARE PROGRAM

November 2, 1989

Mr. Chairman, I am Steve Morrissey, President of the National Association of Retired Federal Employees (NARFE). On behalf of the over 2 million federal annuitants and half-million members of NARFE, we appreciate Senator Wilson's interest in addressing federal workers' need for long-term care protection. We welcome today's hearing on S. 38 as an initial step in exploring how we can best address such an immediate and convoluted issue.

In the 1986 "Catastrophic Illness Expenses Report", former Health and Human Services Secretary, Otis Bowen, recommended that "the federal government set an example for private employers and care providers offering employee-paid long-term care group insurance as an option under the Federal Employee Health Benefits Program." S. 38 proposes utilizing the Federal Employees Group Life Insurance (FEGLI) Program rather than the FEHB Program for providing long-term care insurance. Regardless, we agree the Federal Government should be taking a leadership role in setting systems and standards for long-term care legislation. And as the nation's largest employer, it should act as a model in demonstrating how group programs can effectively and efficiently offer long-term care insurance coverage at a reasonable cost.

Champion of Retired Federal Employees

In that effort, today's retirees are undoubtedly the group most in need of long-term care services. However, S. 38, would exclude the majority of our members, that is current federal retirees, from participation in the proposed program. We see no need to exclude retirees, and cannot support their exclusion. We suggest that perhaps a separate retiree option could be offered with different underwriting techniques to prevent adverse selection. Aside from this concern, NARFE believes other issues must be addressed before we seriously consider using a life insurance conversion option as the vehicle for long-term medical or custodial care coverage.

Although daily reimbursement rates may be flexible, it is our understanding that the proposed program envisions paying benefits up to $20 per home care visit and $40 a day for nursing home confinement. Both of these amounts are slightly less than half of the current national average costs of such services. Home health care costs range from $50 to $200 a day, depending on the needs of the individual, and the average daily rate of skilled nursing home care is about $65 per day. Both of these are average rates reflected by Medicare reimbursements. Private insurer or individual pay rates are often twice as high. We believe any proposed long-term care program must more closely reflect these actual costs.

By all accounts, the greatest danger facing long-term care policyholders is the lack of adequate inflation protection. Although S. 38 provides automatic adjustments in both benefits and premiums, the adjustments are based on the adjustment in Federal GS pay rates. Historically, GS pay rates have not kept pace with the Consumer Price Index (CPI), and most importantly, have lagged well behind the medical care index, the highest expenditure category of the CPI. We fear that if long-term care coverage is adjusted according to GS pay rates, then reimbursements will always fall far short of actual health care costs.

NARFE also recommends a broader enrollment period than proposed in S. 38. The proposed legislation provides the opportunity for electing long-term care coverage only once, in most cases at age 50. For many 50-year olds today, a one-time choice between future long-term care coverage and current financial and familial responsibilities would create a real dilemma. This irrevocable decision mandate, coupled with little public educational awareness of the need for long-term care insurance and the newness of the product might lower expected participation rates. Also experience in the private sector shows that the average age of individuals purchasing group long-term care insurance is 40. Broader enrollment opportunities--both before and after age 50 might then also positively effect the risk pool while benefitting a greater number of people.

Participants also would face a financial risk because the proposed legislation does not allow for portability of coverage. If individuals leave the Federal service before retirement or do not keep up premium payments, benefits are not administered. Certain policy option provisions could be negotiated with the participating private carriers. One such provision would be the right to convert to an individual long-term care policy where the enrollee assumes the full cost of premiums.

Mr. Chairman, the proposed legislation could provide some relief, in a limited capacity, to individuals with burdensome long-term care needs. Converting life insurance coverage to long-term care coverage is one way to address skyrocketing health care costs. But certainly other vehicles deserve further exploration. They include: long-term care contingencies to retirement programs, riders for long-term care insurance to disability coverage policies, and tax incentives such as Individual Medical Accounts and tax credits for long-term care premiums as well as new sources of public revenues. (These options are explored in the May 1989 CRS Report to Congress entitled "Tax Options for Financing Long-Term Care for the Elderly" and the September 1987 HHS Report to Congress by the Long-Term Health Care Task Force entitled "Long-Term Health Care Policies.")

Currently one percent of all private sector employers have implemented a long-term care insurance program with another 8% reportedly considering such programs for the near future. Several states also have initiated long-term care programs for their own retirees and/or employees. There is no question but that long-term care protection is an issue of primary concern to today's seniors and of increasing concern to younger workers.

We are all now fully familiar with the controversy evoked by last year's enactment of the Medicare Catastrophic Coverage Act which required the payment of new health care dollars from millions of older Americans for benefits the majority already had, while it ignored any substantial new coverage for long-term care. One of the few non-controversial provisions of that law was the establishment of a Commission to study and make recommendations on Federal programs, policies and financing needs to assure comprehensive long-term care services. That study group, now recognized as the Pepper Commission, is scheduled to report its findings to Congress in just four months.

NARFE believes that it would benefit all of us to await the findings of the Pepper Commission before we begin development of a long-term care program for the government's own workers and retirees. By doing so we can avail ourselves of its findings, including proposed new directions in existing national programs. Therefore, we avoid the problem of duplicating national program benefits in a specific employee program.

Mr. Chairman, NARFE strongly supports the development of an adequate, affordable long-term care program for Federal workers and retirees. We commend Senator Wilson for proposing a plan to make long-term care coverage available to the federal workforce, and we welcome discussion of the issue that his plan has initiated. While we cannot support all of the specific provisions of his bill, we can assure you of our willingness to work with Senator Wilson, the staff and members of this Subcommittee, and other interested organizations, to plan and develop an innovative group long-term care insurance program for the Federal government which will serve as a model for other employers.

Thank you for the opportunity to testify today and begin that effort.

QUESTIONS SUBMITTED BY SENATOR DAVID PRYOR FOR MR. STEVEN MORRISSEY

1. At the hearing, you indicated that your members are interested in better home health benefits and are willing to help pay for them. What level of coverage do they need and how much are they willing to pay on a monthly basis?

2. Would you suggest expanding any existing federal programs to include broader coverage?

3. As you know, S. 38 would exclude current federal and postal annuitants from participation in a long-term care program. What would you propose to the Federal Government in order to include this group of individuals in a long-term care plan?

NATIONAL ASSOCIATION OF RETIRED FEDERAL EMPLOYEES
1533 NEW HAMPSHIRE AVE., N.W., WASHINGTON, D.C. 20036-1279 (202) 234-0832

H. T. STEVE MORRISSEY, PRESIDENT
H. L. "RIP" RIPPLE, VICE PRESIDENT
HAROLD "HAL" PRICE, SECRETARY
BENNY L. PARKER, TREASURER

November 17, 1989

The Honorable David Pryor
United States Senate
Washington, DC 20510

Dear Senator Pryor:

We are pleased to respond to the written questions posed as a result of our testimony on life insurance conversion to long-term care coverage.

- To answer your first question, the determination of specific financing mechanisms and benefit payment levels is an actuarial one. However, NARFE members would be willing to pay for benefits received as long as the cost is spread equally among beneficiaries.

  In particular, we support measures which encourage the use of home care as a substitute for institutional long-term care needs. The disabled elderly prefer home care yet, their demands for such care are unmet. Instead, public expenditures for long-term care encourage nursing home rather than home care use.

  We believe expanded home health care services, homemaker help, personal care, meals-on-wheels, respite care and adult day care could enable disabled individuals to stay at home, where their independence, autonomy and freedom of choice are preserved. Without adequate home care benefits, we fear that costly institutions may become the "dumping ground" for families who lack the incentive and ability to care for individuals at home.

- In reference to your second question, several recent proposals have suggested expanding existing federal programs, particularly Medicaid, to include broader coverage for long-term care. We do not support the expansion of Medicaid for many reasons. First of all, Medicaid's low reimbursement rates and limited coverage of home care create a bias toward institutional care. In addition, this system will become increasingly burdened as the number of older people rises. In order to make Medicaid a more formal long-term care program, eligibility requirements would have to be revised. Thus, restricting eligibility as has been suggested, could cause considerable hardship to moderate income people, leaving large numbers of individuals unprotected and unable to afford private sector initiatives.

Champion of Retired Federal Employees

Rather than expanding an existing federal welfare program such as Medicaid, NARFE believes other options would be more viable.

o Finally, today's retirees are undoubtedly the group most in need of long-term care services, and we see no need to exclude federal retireees from S. 38. NARFE believes that OPM, in its negotiations with carriers, could solicit coverage of retirees. It would of course, involve separate underwriting techniques where the cost to retirees would be necessarily higher than it is for the active workforce. However, a carefully crafted group long-term care insurance program, will make certain provisions to avoid adverse selection.

Thank you for this opportunity to address additional concerns regarding long-term care. We support the concept of long-term care coverage and would like to continue our involvement in the planning and development of a federal long-term care program.

Sincerely,

Judy Park

Judy Park, Director
Legislative Department

Consumers Union
Publisher of Consumer Reports

Testimony of

GAIL SHEARER

MANAGER, POLICY ANALYSIS

before the

SUBCOMMITTEE ON FEDERAL SERVICES,

POST OFFICE, AND CIVIL SERVICE

GOVERNMENTAL AFFAIRS COMMITTEE

UNITED STATES SENATE

hearing on

S.38

Federal Employees Long-Term Care

Insurance Act of 1989

November 2, 1989

Washington Office
Suite 520, 2001 S Street, Northwest • Washington, D.C. 20009 • (202) 462-6262

SUMMARY OF CONSUMERS UNION'S TESTIMONY ON S.38: FEDERAL EMPLOYEES LONG-TERM CARE INSURANCE ACT OF 1989

Consumers Union believes that a demonstration long-term care insurance policy for federal employees is, in principle, a sound idea. On the positive side:

-- Group insurance tends to be more efficient than individual insurance.

-- Competitive bidding for private insurance companies is a sound way for the private sector to be involved, while the government retains control over the quality and value of the product.

-- The demonstration would allow evaluation of an alternative regulatory approach: standardization of benefits.

General concerns that we have about the program include:

-- The program should be designed to avoid serious consumer protection problems that have marred individual long-term care insurance products.

-- The program should not encourage inappropriate conversion of **needed** life insurance coverage.

-- The benefits of the demonstration are several decades away, since risk of needing long-term care grow with age.

-- The program does nothing to protect younger federal workers and their families against their very real long-term care risks.

-- The program seeks to mask the high cost of long-term care policies; it is important to recognize that this coverage is costly.

Specific consumer protection concerns raised by S.38 are:

-- The bill has inadequate protection against inflation, since the medical care costs tend to increase faster than the CPI (and much faster than the General Schedule increases).

-- Federal employees should receive a refund (or reduced value coverage) if they drop their long-term care policy.

-- Federal employees would need intensive counseling and education efforts to help them make decisions about dropping life insurance and buying long-term care insurance.

-- Federal employees should be able to continue their coverage at a reasonable premium if they leave their federal government job.

-- The policies should avoid restrictions that flaw many individual policies (e.g., prior hospitalization requirements; failure to cover all types of nursing home care at all types of institutions).

-- The level of daily benefits envisioned by OPM is extremely low compared with actual long-term care costs. Federal employees should be fully informed about the unprecedented high level of coinsurance they would have to pay.

Mr. Chairman, and members of the Subcommittee, Consumers Union[1] appreciates the opportunity to present our views on S.38, the "Federal Employees Long-term Care Insurance Act of 1989." Consumers Union has been actively involved in the issue of long-term care for the past two years. In May 1988, **Consumer Reports** published an in-depth evaluation of 53 private long-term care insurance policies. In the October 1989 issue of **Consumer Reports**, we updated the earlier article. (I have attached copies of these articles to my testimony.) In January 1989 we published **Long-Term Care: Analysis of Public Policy Options**, which considered public sector alternatives for solving the nation's long-term care problem.

A demonstration long-term care insurance policy for federal employees is, in principle, a sound idea. Hundreds of thousands of federal employees and their spouses could potentially benefit directly, and millions of non-federal employees could possibly benefit from programs modeled after a federal employee program. However, we caution you to take the care needed to design the program to avoid several possible pitfalls. In my testimony today,

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[1] Consumers Union is a nonprofit membership organization chartered in 1936 under the laws of the State of New York to provide information, education and counsel about consumer goods and services and the management of family income. Consumers Union's income is derived solely from the sale of **Consumer Reports**, its other publications and films. Expenses of occasional public service efforts may be met, in part, by nonrestrictive, noncommercial contributions, grants and fees. In addition to reports on Consumers Union's own product testing, **Consumer Reports**, with approximately 4 million paid circulation, regularly carries articles on health, product safety, marketplace economics and legislative, judicial and regulatory actions which affect consumer welfare. Consumers Union's publications carry no advertising and receive no commercial support.

I will (1) make several general points, (2) summarize the findings in **Consumer Reports** about deficiencies of the private market, and (3) describe several concerns we have about S.38 as presently drafted. I should point out that Consumers Union prefers a public solution to the long-term care problem, but while we await the Pepper Commission recommendations and Congressional action, we will work to help make the private sector function as efficiently as possible so that it can best serve the interests of consumers.

General Comments about Proposed Program

There are several good things that can be said about offering long-term care insurance coverage to federal employees:

1. Group insurance tends to be more efficient (i.e., it has lower administrative costs) than individual insurance. Saving on administrative and marketing costs, which tend to divert nearly half of premium dollars for individual policies, will enable group insurance premium dollars to provide considerably more protection.

2. Competitive bidding, and selection by the government of the best private carriers, strikes us as a sound way to allow the private sector to play a role in solving the long-term care problem. At the same time, the government retains considerable control over the design of the policies and can demand (by the selection process) that carriers meet high performance standards, both in terms of quality of the product and value for premium dollar.

3. The sheer size of the federal work force, with 740,000

workers age 50 or over,[2] means that there is a large potential market for this program.

4. A federal employee demonstration of this type would allow the Congress and state insurance regulators to evaluate the effectiveness of an alternative regulatory approach. Ideally, the Congress would **standardize** the benefit options, and allow for assessment of standardization as a tool to improve the performance of the long-term care insurance market.

There are several general points of caution that you should consider in shaping this program:

1. The government has a special obligation -- since it is in a sense endorsing and subsidizing the product that will serve both federal employees **and** non-federal employees (through imitation products) -- to assure that purchasers have a high-value product that will perform well in the long-run.

2. Current long-term care insurance products that are on the market have a variety of very serious problems that harm consumers. We are not confident that the bill as drafted will avoid these problems. (I will elaborate on these problems later.)

3. While life insurance needs do, in general, decrease as a person ages, many potential purchasers will still have substantial life insurance needs. Care must be taken so that this program does not divert money from **needed** life insurance to pay

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[2] According to the Office of Personnel Management, 630,000 of these employees would be eligible for the proposed long-term care program. Letter from Constance Berry Newman, Director, Office of Personnel Management, to Senator David Pryor, October 10, 1989.

long-term care insurance premiums.

4. The bulk of the benefits of this program are decades away. The risk of needing long-term care increases greatly after age 85. People who buy long-term care insurance at age 50 to 60 are most likely to need the benefits twenty or more years in the future.

5. Like other private long-term care insurance policies, this program does nothing to protect younger federal workers, or families with children with birth defects or other disabling illnesses, against their lower probability (but very real) long-term care risks.[3]

6. By design, this program seeks to mask the high cost of long-term care policies by using (in part) federal workers' premium dollars that would have been spent on life insurance. It is important to recognize that this is not "costless;" there is no getting around the fact that protecting against the costs of long-term care can be high.

Consumer Protection Problems with the Private Long-Term Care Insurance Market

1. Low Value. We expect that many commercial long-term care policies will divert around half of the premium dollars collected

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[3] The 1983 - 1985 Health Interview Survey found that just over one million people under age 65 need personal assistance because of restrictions in ability to perform one or more activities of daily living. They represent 40 percent of the total number of people needing assistance. Bob Griss, "Measuring the Health Insurance Needs of Persons with Disabilities and Persons with Chronic Illness," Access to Health Care, World Institute on Disability (Vol. 1, No. 1 and 2), September 1988, p. 12.

to pay for administrative costs, marketing and profits. S.38 should be able to achieve much higher loss ratios, thanks to group marketing and competitive pressures on companies that are competing to be awarded the contract.

2. Variation. We have found that long-term care insurance policy provisions vary considerably, and the bottom line for consumers is confusion. We do not believe that consumers can make a rational comparison of policies when many features vary from one policy to another. S.38 could eliminate this problem for federal workers by developing a standard policy or limited set of policies for federal workers.

3. Unfair pricing practices. Most long-term care policies are "level-premium" policies. This does not mean that premiums will remain level. It means that premiums will not automatically increase each year as the policyholder ages. Companies with "guaranteed renewable" policies are free to increase the so-called level premium if they also increase it for everyone else in the state who has the same policy. This leads to strange incentives for insurance companies. Companies have a strong incentive to underprice the policy initially in order to attract customers, and then raise premiums in later years, once consumers are locked it. Consumers are forced to make a purchase decision without knowing the cost in future years. This is worse than "bait and switch." It amount to "bait, lock-in, and switch." In contrast, with life insurance, at least the future premium increases are disclosed prior to sale. "Noncancellable" policies are not allowed to

increase premiums, but we are not aware of any companies who offer noncancellable policies.

4. Agent Abuses and Unscrupulous Practices. In the medigap market, there is a long history of agent abuses with catchy names such as "twisting," "rolling over," and "overloading." Unfortunately, the same types of abuses are turning up in the long-term care market. The October, 1989 issue of **Consumer Reports** tells the story of three victims of the troubling practice of "post-claims underwriting" -- the practice of checking a policyholder's medical history only after a claim is filed, instead of when an application is taken. It is very difficult for a consumer to predict at the time of purchase whether the company is likely to honor a legitimate claim made in the future.

5. Inadequate Inflation Protection. We are very concerned about inadequate protection against inflation and about the potential for misunderstanding inflation adjustments in policies. Most health insurance has service benefits. In other words, consumers are reimbursed a percent of charges (e.g., 80 percent of costs). In contrast, most long-term care policies offer indemnity benefits (e.g., $50 per day). We do not believe that policies with modest (but limited) benefit increases protect adequately against inflation. For example, a policy with a 5 percent per year increase for 10 years (less if the policyholder reaches a certain age) leaves a 20-year policyholder with inadequate protection against high inflation levels. A 7 percent per year inflation rate in policy years 10 through 20 would cut the policy benefits in

"real" terms in half. We believe that inflation adjustments should adequately protect consumers against inflation.

6. Nonforfeiture Values. Policyholders who drop their policy, perhaps to buy a better policy, are out of luck. We believe that policies should provide policyholders with compensation (e.g., a refund equivalent to cash value in whole life insurance), since early year premiums are used to subsidize later year risks.

7. Insolvency. We are concerned about the possibility of widespread insurer insolvency in the future, especially in light of the incentives insurers have (initially) to underprice their product. Even if underpricing is unintentional, insolvencies could leave policyholders without the protection they counted on. State guaranty systems are probably inadequate to deal with widespread insolvencies.

Consumer Protection Concerns Raised By S.38

The proposed program for federal employees shares many of the potential problems described above, and raises a few additional concerns as well. Some of our major concerns about the proposal are described below.

1. Inadequate Protection Against Inflation. The bill would increase reimbursement rates each year, indexed to General Schedule salary increases, with an option for use of other indexes (to be determined in negotiations with insurers). The General Schedule index would fail to provide adequate protection against inflation. General Schedule increases tend to be less than inflation, while

medical care cost increases tend to be more than inflation.[4] The Health Care Financing Administration projects that the cost of skilled nursing facilities and home health agencies will increase 2.5 percent to 3.0 percent faster than the CPI.[5] This differential would seriously erode the value of the insurance.

2. Nonforfeiture Value. Federal employees who choose to drop their long-term care insurance coverage should be eligible for some benefits since the premiums they would have paid in would have exceeded (by far) their risks during the early years of a policy. The state insurance commissioners are presently considering how to address this issue. And parts of the insurance industry recognize that some sort of compensation is needed, in part to remove one deterrent to the purchase of long-term care insurance protection.[6]

3. Education and Counseling. Federal employees would benefit greatly from an education/counseling program to assist them in determining both their life insurance and long-term care insurance needs. We are particularly concerned that employees not feel pressured in any way to inappropriately convert their life

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[4] The average yearly percentage change in the medical care component of the CPI was 2.1 percentage points higher than the overall CPI between 1975 and 1985. Alice M. Rivlin and Joshua M. Wiener, Caring for the Disabled Elderly, The Brookings Institution, 1988, p. 35, citing U.S. Bureau of the Census, **Statistical Abstract of the United States, 1987,** (Washington, D.C.: Department of Commerce, 1987), table 775.

[5] Rivlin and Wiener, Caring for the Disabled Elderly, p. 35, citing **1986 Annual Report of the Board of Trustees of the Federal Hospital Insurance Trust Fund,** pp. 67-68.

[6] See Testimony of Richard Schweicker, President, American Council on Life Insurance before the Pepper Commission Hearing on "Options in Long-Term Care," October 5, 1989.

insurance to long-term care insurance. Many families continue to need substantial amounts of life insurance at age 50. When my husband turns 50, for example, our children will be 10, 15, and 17 years old and our need for life insurance will continue to be large. I do not believe that our situation is atypical. All federal employees would benefit from having an objective person and educational materials to assist in making these important decisions. The Congressional Research Service recently made the point that an **intensive** education effort may be needed: "Experience with the recent optional conversion to the Federal Employees Retirement System suggests that modest educational efforts are not sufficient to impart to employees a clear understanding of their own long term financial prospects."[7]

4. Portability. Employment-based policies raise the issue of portability: what happens should the employee choose to change jobs? The employee should be able to continue the long-term care policy in the event of job change, and of course in retirement as well. Section 1 (6) (p. 7) of the bill does provide for conversion to an individual or group policy "upon separation from service." The terms of conversion need to be made explicit; pricing of this "conversion" option is an important factor in determining its value. This issue is related to that of nonforfeiture values; if

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[7] Memorandum to the Senate Committee on Governmental Affairs, Subcommittee on Federal Services, Post Office and Civil Service, from Edward B. Rappaport, Subject: Long Term Care Insurance for Federal Employees, November 17, 1988, citing Judy Greenwald, "Federal workers not eager to join new pension plan," **Business Insurance**, January 11, 1988, p. 1, 47.

the employee drops the policy, some sort of refund is in appropriate.

5. Policy Restrictions. Many private policies, especially those of the early generation of products, used a "prior hospitalization" gatekeeping device to determine eligibility for benefits. Under these policies, before becoming eligible for nursing home benefits, the policyholder was required to spend three days in a hospital. This requirement meant that many people were (or would be) denied protection against nursing home costs because they went directly to the nursing home without first going to the hospital. While some companies are removing this restriction, other gatekeeping techniques such as "ADL's" (activities of daily living) and "case management" are being tried. Whatever the system for determining eligibility for benefits, it should be fair to policyholders, and it should not deny coverage just when it is needed.

Many individual policies distinguish between skilled, intermediate, and custodial care and facilities. Some policies cover only skilled care, for example. Others cover all types of care buy only if it is given in a skilled care facility. Some policies cover custodial care only if is provided in a skilled or intermediate nursing facility. Restrictions of type of care or type of facility covered can serve to deny benefits when they are needed. A demonstration program for federal employees should cover all types of long-term care in all types of facilities and should avoid fine print restrictions that lead to confusion and eventual denial of protection.

6. Level of Benefits. The bill does not spell out the precise benefits package, but the Office of Personnel Management indicates that in one possible package the daily nursing home reimbursement rate might be set at $44 per nursing home day. It is important that potential purchasers be fully informed about how this reimbursement rate compares with typical nursing home costs. Nationwide, the average cost of a day in a nursing home was about $71 in 1988. In Washington D.C., (of relevance to many retired federal employees), the costs are higher and range from $99 to $132 per day. Home care is expensive too. A proposed $22 reimbursement rate for a home visit would pay about one third of the 1988 average home health care visit reimbursed by Medicare.[8] The levels of "coinsurance" in the proposed package are much higher than those that federal employees have experienced with their health insurance. To the extent that cost increases are not fully indexed to health care inflation rates, inflation will serve to continue to decrease the percent of charges that would be reimbursed.

In conclusion, we urge you to make changes to S.38 to ensure that it better meets the needs federal employees. This demonstration program should be perfected so that it can serve as a model program that is worthy of replication by private employers. Thank you, Mr. Chairman, for giving us the opportunity to testify today.

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[8] Gail Shearer, **Long-Term Care: Analysis of Public Policy Options**, Consumers Union, p. 12.

Who can afford a nursing home?

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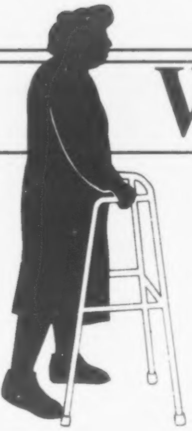
Who can afford a



Illustrations by Petco   Charts by Corinne Abbazia Hekker

This year, 2.3 million of the nation's elderly will be living in a nursing home. Three decades from now that number will nearly double. A year in a nursing home now costs on average $22,000 or more. By the year 2018, it will cost about $55,000 if inflation stays at recent moderate rates.

Who will pay the bill?

Medicaid, the Federal program that finances health services for the poor, paid half of the $38-billion that went into nursing-home care in 1986. Most people aren't poor when they enter a nursing home, but they become poor soon after.

The other half of the $38-billion came out of the pockets of nursing-home residents or of their children, who often find themselves squeezed between the financial needs of their own family and the burden of caring for aged parents.

Contrary to popular belief, Medicare, the Federal program that provides health care for the aged, pays only a tiny fraction of the cost of nursing-home care.

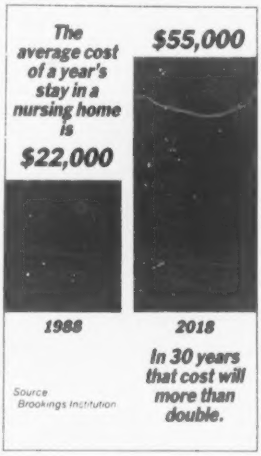
The Reagan Administration believes that the Federal government has no role to play in providing long-term care unless you're poor. The nonpoor, it tells us, should look to private insurance companies for protection against the potentially devastating financial consequences of a prolonged stay in a nursing home. As a result, long-term-care insurance policies, unknown until a few years ago, have proliferated. Currently, some 70 companies, ranging from familiar giants like Aetna and John Hancock to lesser-known firms like Reserve Life and Pilgrim Life, have entered the field. For this report, we analyzed 53 of their policies.

We'd like to report that private insurance policies can meet the increasingly urgent need for long-term-care coverage at a moderate cost. But many of the insurance policies we looked at were very expensive, severely limited in their coverage, or both. People who buy them at age 65 may have to pay as much as $100 a month for adequate coverage. People who try to shop for them will run into a crazy quilt of charges, waivers, and limitations that confuses even the insurance agents who sell the policies.

Defining the policy

Simply stated, long-term-care insurance pays a set amount each day for a specified period of time that a policyholder stays in what's called a "covered nursing facility." Unlike other kinds of health insurance, these policies usually don't reimburse the policyholder for fees actually charged. The fixed benefit is one major drawback of nearly all such policies. Should you buy a policy today and enter a nursing home 10 years from now, you may find that the benefit pays a much smaller part of the actual cost than you thought it would at the time you bought the policy. Only a few policies offer a rider that adjusts the benefit annually for inflation.

Furthermore, you'll find huge differences in dollar benefits, in definitions of covered nursing facilities, in the length of time benefits are paid, in limitations on coverage, and in eligibility for benefits. Those differences are spelled out in the Ratings on page 304.



Type of facility covered

There are three types of long-term-care facility: skilled, intermediate, and custodial. A policy may or may not cover care in all three types, and different policies may define the three types of facility differently. In general, the definitions are the following:

Skilled nursing. Such care must be prescribed by a doctor, given by a skilled nurse, and be available for 24 hours a day. These facilities are licensed by the state, and daily medical records are kept on each patient.

Intermediate. In such facilities, care may require the skills of a nurse, but the level of care is somewhat less than that given in a skilled-care facility. For example, a nurse may be on hand only to give patients injections or to change their bandages. The facility may be licensed and may provide post-hospital and rehabilitative nursing care.

Custodial. Care here means helping a person with such routine activities as getting out of bed, walking, eating, and bathing. It may be given by people without professional skills or training, but some insurance policies may require that the facility be licensed.

The best policies pay benefits for all three kinds of care in all three types of facility. Buy less than the best, and you may discover that your insurance doesn't cover the type of care you require.

Note that policies can imply coverage where none exists. For example, a policy might provide coverage for all three *types* of care, but require that the care be given in only *one* type of facility, such as a nursing home that provides skilled care.

Custodial care is sometimes covered only if it is provided in a skilled- or intermediate-nursing facility. Some policies pay no benefits for custodial care, no matter where it's given. That's a major deficiency. Very few people need skilled care for long periods; much of the care in nursing homes is of the intermediate or custodial variety. Stroke victims, in particular, often require a long period of custodial care while recovering.

Qualifying for benefits

Most policies require beneficiaries to be hospitalized for at least three days before

nursing home?

they enter a nursing home. And usually the nursing home must continue to provide care for the illness or condition that put the individual in the hospital.

Furthermore, the person must check into the nursing home within a certain period after checking out of the hospital. That period is usually 30 days, but it can be as short as 14 days or as long as 90 days. These rules can limit the usefulness of the insurance. Such debilitating conditions as arthritis and Alzheimer's disease usually do not require hospitalization. Only about 40 percent of all nursing-home patients check in after a hospital stay.

A few policies do not demand a hospital stay before paying benefits for long-term care. But the companies that issue them, including Blue Cross/Blue Shield and Metropolitan Life, do retain the power to decide who is eligible for benefits. Some companies, including MidAmerica and Continental Casualty, offer buyers a choice of policies with and without "prior-hospitalization" rules. Of course, the ones without these rules generally cost more.

We found nine policies free of either the prior-hospitalization rule or the company's veto of a policyholder's eligibility for nursing-home coverage.

Other restrictions may stand in the way of custodial care, which is potentially the longest-lasting and hence the most costly type of care. John Hancock's individual policy, for example, pays for care in a custodial facility only after 14 continuous days of skilled-nursing care. Aetna pays for a policyholder's first stay in a custodial facility only after a stay in either a skilled or an intermediate-care facility.

What's not covered?

No policy pays benefits for stays in rest homes or old-age homes. Nor do they pay for stays in mental hospitals or alcohol and drug rehabilitation centers. Most significantly, long-term-care policies tend to limit benefits for existing health problems and for Alzheimer's disease, the very reasons people might seek coverage in the first place.

Most companies limit coverage for "preexisting conditions"—those illnesses or diseases a buyer has when the policy is issued. The preexisting-conditions clause acts as a gatekeeper, turning away those who want to buy the coverage because they know they need it. If a company does not have a preexisting-conditions clause, it usually retains the power to decide who's eligible for benefits.

Most policies define a preexisting condition as any health problem experienced by the policyholder in the six months prior to buying the policy. But a number of policies count back one to three years.

If the insurance company sells a policy to a person with such a preexisting condition, it sets a waiting period before coverage for that condition can begin. These periods range from six months to two years. So if a heart condition lands someone in a nursing home three months after the policy was issued, the company won't start paying benefits immediately.

Virtually all the policies exclude care for mental and nervous disorders. Does that include Alzheimer's disease, a debilitating condition that's diagnosed in about half of all nursing-home patients?

Although Alzheimer's is not specifically excluded, about half the policies we looked at said something like "we won't pay for confinements due to mental illnesses except those with demonstrable organic disease." Alzheimer's disease is a degenerative brain disease with symptoms that mimic those of mental illness. It's considered an organic disease and therefore would seem to be covered. But is it a *demonstrable* organic disease? Only a biopsy or an autopsy can confirm a diagnosis of Alzheimer's disease.

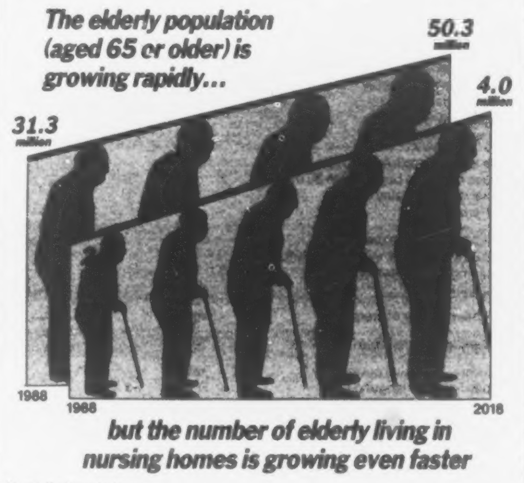
In our opinion, the vague policy language gives insurance companies too great an opportunity to contest a claim on the grounds that Alzheimer's disease has not been demonstrated. A company suddenly flooded with claims from policyholders with Alzheimer's disease might rely on that language as a basis for denying nursing-home coverage.

Other policies clearly state that Alzheimer's disease is covered. But here, again, there's a catch. Many of these policies also impose the prior-hospitalization rule. Most Alzheimer's patients, as we've noted, do not require hospitalization before they enter a nursing home.

When we asked an Aetna salesman about this, he replied: "To tell you the honest-to-goodness truth, if a doctor didn't find some way to get you into a hospital, then you're in trouble."

How large a benefit?

Daily benefits range from $25 to $100. Some policies offer a choice of benefit amounts. Obviously, it makes sense to pick a policy with benefits that closely match local nursing-home costs. A policy



Source: Brookings Institution

paying $40 a day when the local nursing home costs $140 isn't much help. A call to two or three homes will help to establish a reasonable range of daily charges. Nationally, the average cost of a nursing home is $60 a day.

Sometimes insurance companies pay smaller benefits for custodial care than for skilled and intermediate care. The Gerber Life policy, for instance, pays a $75 benefit for skilled-nursing care, a $50 benefit for intermediate care, but only $25 if a policyholder needs custodial care.

When do benefits begin?

Policyholders can often decide when they want their coverage to start—as soon as they enter a nursing home, 20 days later, or even 100 days later. The longer this "waiting period" (sometimes called an elimination period), the cheaper the policy.

How long do benefits last?

The best policies pay benefits for an unlimited number of days for each stay in a nursing home and an unlimited number of days for all nursing-home stays. Those stays in a nursing home are sometimes called "periods of confinement" or "benefit periods."

Other policies pay benefits for a specific number of days, ranging from 730 (two years) to 3650 (10 years) for one stay, and from 730 days (two years) to 2555 (7 years) for all nursing-home stays. A few policies don't limit the number of days they'll pay benefits. They set dollar maximums instead.

In order to receive benefits for a repeat stay in a nursing home, the policyholder must usually have been out of a nursing home for at least 180 days. And when he or she returns, the waiting period starts all over again, so coverage doesn't begin immediately. Waiting periods for preexisting conditions don't begin again, however.

Sometimes a policy will have a shorter benefit period for intermediate or custodial care than for skilled-nursing care. This could be a severe limitation, since nursing-home patients require skilled care less often than intermediate or custodial care. Nearly 40 percent of all nursing-home patients stay longer than six months. Chances are good that those longer-staying patients needed intermediate or custodial care, not skilled care.

What's in a good policy?

Features	*Recommended*	*Your policy*
Daily nursing-home benefit	$80.00	$
Waiting period	20 days	
Maximum benefit period for one stay	4 years	
Maximum benefit period for all stays	Unlimited	
Does it pay full benefits in:		
Skilled-nursing facility?	Yes	
Intermediate facility?	Yes	
Custodial facility?	Yes	
(If not, what does it pay?)		
If it has a prior-hospitalization rule, does coverage begin within 30 days after a hospital stay of at least 3 days?	Yes	
Does it pay home-care benefits?	Yes	
Does it pay these without requiring nursing-home care, or a hospital stay?	Yes	
Does it have waiver of premium?	Yes	
Is it guaranteed renewable for life?	Yes	
Is Alzheimer's disease covered by specific policy language?	Yes	
Does the premium stay level for life?	Yes	
What is the Best's rating of the company?	A or A +	
No premium is recommended; premiums vary with the age of the policyholder:	—	$

Are policies renewable?

Many policies are "guaranteed renewable," a desirable feature that insurance companies like to highlight in their sales literature. The company must renew coverage each time the policyholder pays the premium.

Beware of policies that are only "conditionally renewable." The insurer can cancel the policy provided it also cancels all other similar policies in a state. That could happen if an insurance company discovers it is losing money on this relatively new type of coverage.

A number of policies are written for groups such as the American Association of Retired Persons (AARP), or even for a fictitious group set up by the insurance company for marketing and regulatory purposes. The group holds the master contract and issues certificates to individual policyholders. The master contract for the group can be canceled, but policyholders are often able to continue the same coverage on their own.

What else to look for?

Here are other features we looked for in a policy:

Home care. More than half the policies in our study paid benefits for care at home. These benefits are usually offered as part of the basic policy coverage, but sometimes they are offered as a separate policy or as a rider at an additional premium. Home care typically covers convalescent care, homemaker or companion services, and occasionally even skilled-nursing care. A few policies define home care broadly enough to include care in hospices and adult day-care centers.

Typically, the home-care benefit is one half the daily benefit paid for skilled nursing or intermediate care, but that's where the similarity among policies ends. There's wide variation in eligibility for home-care benefits and in when those benefits begin and end.

Policies that require previous nursing home or hospital confinement would usually pay for home care only if it starts within 14 days after leaving the nursing home or hospital. Policies that do not have such a requirement would generally start paying as soon as the regular waiting period has ended.

Continued on page 6

Pitching the policies

It has never been easy to understand insurance policies. It's even tougher when the agents selling them don't understand what they're selling. And when the policy sold is brand-new, it takes a miracle to avoid misunderstanding, duplication of coverage, or even inadequate coverage.

A CONSUMER REPORTS reporter listened to sales pitches given by six insurance agents in New York and Virginia. Two agents represented Aetna; the others represented Union Bankers, Bankers Life and Casualty, Gerber Life, and Mutual of Omaha. Our reporter witnessed no miracles.

She found confusing presentations from agents who were either ignorant of the provisions in their policies or who deliberately misstated them. An Aetna agent in Virginia admitted, "I've never had to explain this to someone." Some agents were remarkably low key, acting as if they didn't want to sell the policy.

Alzheimer's confusion

About half of all nursing-home patients suffer from Alzheimer's and related diseases, so shoppers would want to know whether a policy provided coverage for such illnesses. They wouldn't have found out listening to these agents or reading their sales brochures. The agents' confusion may well reflect their company's indecision over whether to provide such coverage.

The Aetna agent in Virginia allowed that "it was questionable" whether his policy covered the disease, but said the company was "still looking at it." He added, "It's a mental disease, and they're not sure."

No wonder he was confused. The sales brochure sent by Aetna said Alzheimer's was covered, but the actual language in the policy was less specific. It said that the policy did not cover confinements for mental disease or disorders without demonstrable organic disease. As we point out on page 3, that language may or may not mean the disease is covered.

The Union Bankers agent said Alzheimer's was covered, but the brochure he left noted that the policy didn't cover nursing-home stays for "mental illness or nervous disorders." Did that mean Alzheimer's is covered? Our reporter could only guess.

What's covered?

Coverage is the guts of a long-term-care policy, but agents were of no help defining the coverage or discussing the policy limitations. Here's how the Aetna agent in New York handled these questions:

What about intermediate-care coverage? The agent fumbled for his sales brochure and replied: "They define it here somewhere." What about skilled nursing care? "On this plan, you don't have to worry about the definition," he assured us.

As for limitations on coverage, he said there were none. "Once you have this policy, you're covered for everything." Everything? The policy specifically says it does not provide benefits for six months if a nursing-home stay results from a preexisting condition.

A competitor also had trouble explaining coverage. The agent from Bankers Life and Casualty said that intermediate care was the same thing as "convalescent care" and that skilled care meant that "they do a little more medical than the others."

When asked whether any prior hospitalization is required before skilled-nursing benefits could be paid, the agent for Mutual of Omaha said: "I don't think so. I've never seen where you have to be hospitalized first." He didn't look very far. That's just what his company's sales brochure said.

What Medicare pays

Many people think that Medicare covers nursing-home stays (see box page 14). Actually, it pays for skilled nursing-home care in Medicare-approved facilities for only 20 days and then all but $67.50 per day for the next 80 days. After 100 days, Medicare pays nothing.

Here's what the agents said:

The Gerber Life salesman said that 70 percent of all applicants for Medicare benefits were turned down "because Medicare doesn't have funds for skilled care." But when Medicare does accept an individual, he said, "after 100 days, they wash their hands of you."

The Bankers Life and Casualty agent said that Medicare paid for 100 percent of home health-care costs. "It's a wonderful benefit," he said, declaring that Medicare pays "for girls to come in" and "help do your hair."

The agent had let his imagination run away with him. Medicare's home-care benefit is very limited, and it certainly doesn't pay for beautician services. It pays only for part-time, intermittent skilled care and for physical or speech therapy. The provider must participate in Medicare.

What about rate hikes?

It wasn't always easy to get a straight answer about whether premiums could go up or policies could be renewed.

The Bankers Life and Casualty agent incorrectly said the premiums would never increase, wrongly labeling this policy feature as "guaranteed renewable." The policy and the sales brochure say that the company can raise premiums if it raises them for all policies like the one the agent was selling.

The Aetna agent in Virginia also assured our reporter that the premiums would not increase. "Once these premiums are set, you'll be paying them forever." He even double-checked his sales manual. "No, they shouldn't go up," he repeated. The sales literature he gave to our reporter didn't say one way or the other, but Aetna's policy is similar to the one from Bankers Life and Casualty. Both companies can raise rates for everyone who owns the same policy in the state.

The Mutual of Omaha salesman was thoroughly confused. His policy is not guaranteed renewable, but he replied, "It is and it isn't. If the state does not permit the company to renew, then we have to pull the policy." While that statement is true enough, it has nothing to do with the renewability feature of his policy.

Mutual of Omaha's sales brochure revealed that the company could refuse to renew a policy, if it refuses to renew them for all those who own that particular policy in the same geographic area of the policyholder's state.

Which one is best?

Naturally, each agent declared his policy the best. The feature they all cited as evidence was the length of time benefits would be paid—unquestionably important, but not necessarily the only measure of superiority.

The Gerber salesman touted his policy as the best because he said it paid benefits for "eight continuous years." And he knocked the American Progressive policy. But as you can see from the Ratings, the Gerber policy was hardly the best, ranking near the bottom. The American Progressive policy ranked close to the top.

What's best is a combination of features. To help you figure out which policy is best, ask for answers to all the questions listed in the box on page 4.

If you get answers that are vague or that contradict the sales literature, ask for a specimen policy. The policy will tell you exactly what's covered and what's not, setting out all the limitations you need to know about.

An agent might be reluctant to give you a specimen policy, however. When our reporter asked the Mutual of Omaha salesman for one, he refused to supply it. If that happens, write to the company. If a company doesn't give you what you need, go to one that does.

Policies usually pay home-care benefits until the regular benefit period maximum has run out. But we found policies that paid home-care benefits for other periods: 30 days, 90 days, one year, two years, or even three years.

Inflation adjustments. The greatest danger facing policyholders is the lack of inflation protection. The $40, $75, or even $100 daily benefit paid by policies today may be woefully inadequate if you need nursing-home care 5 or 10 years from now.

Only one company, Great Republic, sells a policy with built-in inflation protection. The benefit automatically increases by 5 percent each year for as long as a policyholder hangs on to the policy.

Other companies allow policyholders to buy a rider that automatically raises benefits by some amount each year, usually 5 percent. These automatic increases usually stop after 10 years. The riders generally add between 15 and 40 percent to the premium, depending on the coverage.

A few policies pay benefits based on the actual nursing-home charges. If these charges go up, then the benefits will rise as well.

Waiver of premium. Many insurers relieve policyholders of paying further premiums once they've been in a nursing home for a period of time, usually 90 days. This feature is often part of the basic policy, but occasionally policyholders will have to pay extra for it.

Assistance in finding care. A few sellers employ care coordinators who help people find facilities that are covered by their policies. Other companies have toll-free telephone numbers that policyholders or their families can call to find out about nursing homes in their areas.

Will the price go up?

As with life insurance, the older you are when you buy the policy, the more expensive it is. A 75-year-old buying Great Republic's long-term-care policy will pay $3143 a year. A 55-year-old can buy the same policy for $611 a year.

In most cases, the premiums remain "level"—they don't increase after someone buys the policy. (Premiums that do increase annually or every few years as the policyholder grows older make a policy far less desirable.)

But a level premium is not necessarily as level as it looks. A company can increase a so-called level premium on your policy provided it also increases the premium for everyone else in your state who bought the same policy.

One CONSUMER REPORTS reader wrote us about his experience with a policy from Massachusetts Indemnity and Life: The

Continued on page 10

Guide to the Ratings

Listed in order of estimated overall quality. Within red rules, plans were judged approximately equal in quality.

① **Premium.** Premium paid at age 65, expressed as a monthly amount for the purposes of the Ratings.

② **Daily benefit.** The amount of money a policy pays for each day spent in a covered care facility.

③ **Waiting period.** The number of days a policyholder must be in a facility before coverage actually begins.

④ **Each period.** The number of days a policy pays for one stay in a nursing home. Some policies have dollar maximums instead.

⑤ **All periods.** The number of days a policy pays for all nursing-home stays.

⑥ **Skilled.** Policy pays benefits for care in a skilled-nursing facility.

⑦ **Intermediate.** Policy pays benefits for care in an intermediate-nursing facility.

⑧ **Custodial.** Policy pays benefits for care in a custodial-nursing facility. Care is usually limited to helping people perform routine activities.

Ratings

Nursing-home insurance

Company name	① Premium	② Daily benefit	③ Waiting period
Great Republic with Skilled Care at Home Rider 206-285-1422	$ 87.50 [1]	$ 80	20
John Hancock Mutual Life Protectcare - Individual 617-421-6000	76.62 [1]	100	20
American Progressive Life & Health 800-243-8214	57.24	80	20
Bankers Life and Casualty with Home Health Care Benefit Rider 312-777-7000	53.54	50	20
Bankers Multiple Line with Home Health Care Benefit Rider 312-777-7000	53.54	50	20
Certified Life with Home Health Care Benefit Rider 312-777-7000	53.54	50	20
Union Bankers with Home Health Care Benefit Rider 312-777-7000	53.54	50	20
Equitable Life and Casualty 800-453-3245	52.56	60	30
Life Insurance Co. of Connecticut 800-645-9876	68.04	80	20
Metropolitan Life Group Policy for Williamsburg Landing 212-578-2211	95.00 [2]	46 [4]	60
Farwest American Assurance Co. 503-224-7740	50.67	80	20
Bankers Life and Casualty without Home Health Care Benefit Rider 312-777-7000	36.30	50	20
Bankers Multiple Line without Home Health Care Benefit Rider 312-777-7000	36.30	50	20

[1] *Represents one-twelfth of company's annual premium. Monthly premium, if available, would probably be higher.*

[2] *Composite rate means the company charges the same premium at all ages.*

[3] *Represents weekly premium.*

[4] *Benefit paid for one person; policy pays $60 for first spouse of a couple living together.*

[5] *Pays 80 percent of actual charge with maximum policy payment of $80 a day.*

[6] *Pays 100 percent of actual cost.*

[7] *Pays for "usual and customary" charges up to a maximum of $50.*

[8] *Pays 100 percent of "eligible" charges up to a maximum of $75.*

[9] *Pays this for skilled care, pays $50 for intermediate care and $25 for custodial care.*

[10] *Pays 75 percent of charges based on negotiated rates with participating provider.*

[11] *Daily equivalent of company's $2000 a month benefit.*

[12] *Pays half benefits for first 50 days, but waiting period does not apply.*

[13] *Pays for custodial care only.*

[14] *Depends on company's interpretation.*

[15] *Shorter benefit period.*

[16] *Reduced daily benefit.*

[17] *Only after 14 days skilled-nursing care.*

⑨ **Home care.** Policy pays benefits for care at home.

⑩ **No prior hospitalization.** Most policies require a hospital stay of at least three days before entering a nursing home. Policyholder must also enter nursing home within 30 days of hospital discharge. A — indicates the policy has a prior-hospitalization rule. Variations of this rule are listed under advantages and disadvantages.

⑪ **Alzheimer's coverage.** The policy language specifies that Alzheimer's disease is covered.

⑫ **Inflation adjustment.** An optional rider or other arrangement which increases benefits by a set percentage each year for a certain number of years.

⑬ **Preexisting conditions.** Policy covers care for preexisting conditions—ailments or illnesses a policyholder has at the time a policy is issued.

⑭ **Level premiums.** A premium that doesn't increase with the age of a policyholder is highly desirable.

⑮ **Guaranteed renewable.** Company will always renew coverage each time the premium is paid. Without this protection, a company can usually cancel the policy if it cancels all other policies of that type in a state.

⑯ **Waiver of premium.** Feature allows policyholders to stop paying premiums once they've been in a nursing home for a certain period, usually 90 days.

⑰ **Rejection rate.** The percentage of applicants rejected by a company. A — indicates company provided no information.

⑱ **Substandard risks.** Someone who has health problems can buy insurance with a higher premium, **P**, or a waiver, **W**, that excludes coverage for those problems. Waivers are undesirable.

Maximum benefit		***Type of facility***														
④ **Each period**	⑤ **All periods**	⑥ **Skilled**	⑦ **Intermediate**	⑧ **Custodial**	⑨ **Home care**	⑩ **No prior hospitalization**	⑪ **Alzheimer's coverage**	⑫ **Inflation adjustment**	⑬ **Preexisting conditions**	⑭ **Level premiums**	⑮ **Guaranteed renewable**	⑯ **Waiver of premium**	⑰ **Rejection rate**	⑱ **Substandard risks**	**Advantages**	**Disadvantages**
unlimited	unlimited	[12]	✓	✓	✓	—	—	✓	—	✓	✓	✓	10%	—	B,E	l
2190	2190	✓	[14]	[17]	✓	✓	✓	✓	—	✓	✓	✓	20-25	—	A,C	—
1095	1825	✓	✓	[18]	✓	—	—	—	—	✓	✓	✓	5	—	—	—
1095	unlimited	✓	✓	✓	✓	—	✓	✓	—	✓	✓	✓	10	—	—	—
1095	unlimited	✓	✓	✓	✓	—	✓	✓	—	✓	✓	✓	10	—	—	—
1095	unlimited	✓	✓	✓	✓	—	✓	✓	—	✓	✓	✓	10	—	—	—
1095	unlimited	✓	✓	✓	✓	—	✓	✓	—	✓	✓	✓	3	—	—	—
3650	$250,000	✓	✓	[18]	✓	—	—	—	—	✓	✓	✓	7	—	—	l
1095	1825	✓	✓	[18]	✓	—	—	—	—	✓	✓	✓	5	—	—	l
unlimited	unlimited	✓	✓	✓	✓	✓	✓	✓	—	✓	—	—	10	P	D,F	b,e,h
1460	2190	✓	✓	[18]	✓	✓	✓	✓	—	✓	✓	✓	12	—	A	—
1095	unlimited	✓	✓	✓	—	—	✓	✓	—	✓	✓	✓	10	—	—	—
1095	unlimited	✓	✓	✓	—	—	✓	✓	—	✓	✓	✓	10	—	—	—

[18] *Benefits paid only after pre-confinement in skilled or intermediate facility; benefits are reduced and paid over a shorter period.*

Key to Advantages

- A – No prior hospitalization required; company does not arbitrarily decide whether policyholder requires nursing-home care.
- B – Built-in inflation adjustment.
- C – Toll-free number available to policyholders needing help with nursing-home selection.
- D – Care coordinator available to help policyholders find nursing homes.
- E – Intermediate or custodial care must follow either hospital confinement of two days or skilled confinement of 10 days.
- F – Benefit represents 100 percent of incremental cost for retirement-home resident.
- G – Product operates according to HMO service-provided principles.
- H – Will verify that institution complies with group certificate language as a covered facility.
- I – Must check into nursing home within 90 days of discharge from hospital.
- J – Company has large variety of home-care coverages available in separate policy or rider.

Key to Disadvantages

- a – Policyholder must check into nursing home within 14 days of discharge from a hospital—a very short time for decisions.
- b – Company arbitrarily decides whether policyholder requires nursing-home care.
- c – Has premiums that go up annually as policyholder gets older.
- d – Has premiums that go up every few years.
- e – Conditionally renewable, or group insurance contract.
- f – Must remain in retirement community group to keep coverage.
- g – Pays for custodial care that takes place in a skilled or intermediate facility.
- h – Intermediate facilities and custodial facilities (Personal Care Homes) must be on site and owned by retirement community.
- i – Pays only if the facility qualifies, irrespective of level of care.
- j – Pays for intermediate or custodial care that takes place only in a skilled facility.
- k – Pays for skilled, intermediate, or custodial nursing care only in a skilled facility.
- l – Company has Best's rating of B or lower, or is not assigned by Best's.

Ratings of Nursing-home insurance

Continued

Company name	① Premium	② Daily benefit	③ Waiting period	Maximum benefit ④ Each period	⑤ All periods	⑥ Skilled	⑦ Intermediate
Certified Life without Home Health Care Benefit Rider 312-777-7000	$ 36.30	$50	20	1095	unlimited	✓	✓
Union Bankers without Home Health Care Benefit Rider 312-777-7000	36.30	50	20	1095	unlimited	✓	✓
John Hancock Mutual Life Flex Plan 88 - Group Policy 617-421-6000	16.11 [3]	[5]	90	1460	1460	✓	[14]
Group Health Cooperative of Puget Sound Security Care Agreement of Metropolitan Life 212-578-2211	80.00	[6]	30	1460	1460	✓	✓
World Life & Health of Pennsylvania 800-523-1200	53.75 [1]	50	0	730	unlimited	✓	✓
Transport Life 817-390-6060	89.56	80	0	1460	$204,400	✓	✓
AMEX Life 415-492-7000	33.00 [1]	55	20	1460	1460	✓	✓
Aetna Life and Annuity Long Term Care Plan 203-273-0123	33.02	50	20	1460	1460	✓	✓
Reserve Life 214-670-9700	37.32	60	100	1095	1095	✓	✓
Acceleration Life 614-764-7000	83.16	80	100	1825	1825	✓	✓
MidAmerica Mutual Life with Prior Hospitalization 612-331-6370	67.20	60	20	$60,000	$60,000	✓	✓
Continental Casualty with Home Health Care Rider 312-822-5000	43.25	60	15	1825	2555	✓	✓
Harvest Life 616-968-7200	44.22	50	20	1095	1825	✓	✓
Mutual Protective 402-391-3900	43.95 [1]	60	20	1095	1460	✓	✓
Continental Casualty without Home Health Care Rider 312-822-5000	38.40	60	15	1825	2555	✓	✓
MidAmerica Mutual Life without Prior Hospitalization 612-331-6370	78.60	60	20	$100,000	$100,000	✓	✓
Prudential, American Association of Retired Persons (available April, 1988) 800-523-5800	55.00	50	90	1095	1095	✓	✓
Federal Home Life 800-253-0856	42.50 [1]	50 [7]	20	1095	1825	✓	✓
Blue Cross of Washington and Alaska 800-231-9519	69.58 [1]	75 [8]	20	2190	2190	✓	✓
AIG Life Group Long Term Care Certificate with Extended Home Care Rider 302-594-2000	68.20	60	20	1825	1825	✓	—
American Travellers Life without Supplemental Home Health Care Policy 215-343-1000	24.30	50	0	730	730	✓	[15]
NN Investors Life with Home Health Care Rider 800-338-0257	37.80	60	20	1000	1500	✓	✓
Columbia Life 717-784-2716	42.50	50	20	1460	1460	✓	[15]
Travelers Long Term Care Plan Trust 203-277-0111	66.75	50	90	$75,000	$75,000	✓	✓
American Republic with Home Health Care Benefit 515-245-2000	66.42	60	60	$90,000	$90,000	✓	✓
NN Investors Life without Home Health Care Rider 800-338-0257	29.16	60	20	1000	1500	✓	✓
Penn Treaty Life with Supplemental Coverage for Home Health Care 800-222-3469	75.19	50	0	730	730	✓	✓
Prudential, American Association of Retired Persons (Previous Plan) 800-523-5800	48.75	50	90	1095	1095	✓	✓
American Republic without Home Health Care Benefit 515-245-2000	58.44	60	60	$90,000	$90,000	✓	✓
Colonial Penn Life 800-523-4000	55.15 [1]	60	20	1095	unlimited	✓	✓
Gerber Life 914-761-4404	39.59	75 [9]	100	1825	$187,500	✓	[15] [16]
Finger Lakes Long Term Care, Subsidiary of Blue Cross and Blue Shield of Rochester 716-454-1700	102.56	[10]	100	1825	1825	[13]	[13]
American Sun Life with Home Convalescent Policy 305-647-3111	56.81	60	0	1095	unlimited	✓	—
United General Life with Home Convalescent Care Coverage 813-544-8881	39.83 [1]	60	0	730	unlimited	✓	—
Pilgrim Life Three Diamond Plan with Home Private Duty Nursing Benefit of $100 per day 215-534-8800	65.19	67 [11]	0	730	730	✓	✓
Penn Treaty Life without Supplemental Insurance Coverage for Home Health Care 800-222-3469	52.24	50	0	730	730	✓	✓
American Sun Life without Home Convalescent Policy 305-647-3111	31.32	60	0	1095	unlimited	✓	—
Pilgrim Life Three Diamond Plan without at Home Private Duty Nursing 215-534-8800	52.20	67 [11]	0	730	730	✓	✓
Life and Health of America 215-867-1246	100.00	40	20	730	730	✓	✓
United General Life without Home Convalescent Care Coverage 813-544-8881	28.08 [1]	60	0	730	unlimited	✓	—

Type of facility ⑧ Custodial	⑨ Home care	⑩ No prior hospitalization	⑪ Alzheimer's coverage	⑫ Inflation adjustment	⑬ Preexisting conditions	⑭ Level premiums	⑮ Guaranteed renewable	⑯ Waiver of premium	⑰ Rejection Rate	⑱ Substandard	Advantages	Disadvantages
✓	—	—	✓	✓	—	✓	✓	✓	10%	—	—	—
✓	—	—	✓	✓	—	✓	✓	✓	3	—	—	—
✓	✓	✓	✓	✓	—	✓	✓	✓	5-10	—	*D*	b
✓	✓	✓	✓	✓	✓	✓	—	—	20-30	—	*D,G*	b,e
✓	✓	—	—	—	—	✓	✓	✓	3	P,W	*C*	l
✓	✓	—	—	—	—	✓	—	✓	3-5	—	*H*	e
[14]	✓	—	✓	✓	—	✓	✓	✓	10-20	—	*C,I*	—
[15]	✓	—	—	✓		✓	✓	✓	10	—	*C*	—
[16]	✓	—	—	—	—	✓	✓	✓	5	—	—	—
✓	✓	—	—	—	—	✓	—	✓	3	W	—	e
✓	✓	—	✓	—	—	—	✓	✓	—	—	—	c
—	✓	—	—	✓	—	✓	✓	✓	15	P	—	g
✓	✓	—	—	—	—	✓	—	✓	1	—	—	e
—	✓	✓	✓	—	—	✓	✓	✓	17	P	A,C	g
—	—	—	—	✓	—	✓	✓	✓	15	P	—	g
✓	✓	✓	✓	—	—	—	✓	✓	—	—	A	c
✓	✓	✓	✓	—	—	✓	✓	✓	—	—	A,C	—
✓	✓	—	—	—	—	✓	—	✓	1	—	—	e
✓	✓	✓	—	—	✓	✓	✓	✓	20-22	—	*D*	b
—	✓	—	✓	—	—	✓	✓	✓	20	—	*D*	i
[15]	—	—	—	—	—	✓	✓	—	2-4	P	*J*	a,l
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Key to Advantages

A – No prior hospitalization required; company does not arbitrarily decide whether policyholder requires nursing-home care.
B – Built-in inflation adjustment.
C – Toll-free number available to policyholders needing help with nursing-home selection.
D – Care coordinator available to help policyholders find nursing homes.
E – Intermediate or custodial care must follow either hospital confinement of two days or skilled confinement of 10 days.
F – Benefit represents 100 percent of incremental cost for retirement-home resident.
G – Product operates according to HMO service-provided principles.
H – Will verify that institution complies with group certificate language as a covered facility.
I – Must check into nursing home within 90 days of discharge from hospital.
J – Company has large variety of home-care coverages available in separate policy or rider.

Key to Disadvantages

a – Policyholder must check into nursing home within 14 days of discharge from a hospital—a very short time for decisions.
b – Company arbitrarily decides whether policyholder requires nursing-home care.
c – Has premiums that go up annually as policyholder gets older.
d – Has premiums that go up every few years.
e – Conditionally renewable, or group insurance contract.
f – Must remain in retirement community group to keep coverage.
g – Pays for custodial care that takes place in a skilled or intermediate facility.
h – Intermediate facilities and custodial facilities (Personal Care Homes) must be on site and owned by retirement community.
i – Pays only if the facility qualifies, irrespective of level of care.
j – Pays for intermediate or custodial care that takes place only in a skilled facility.
k – Pays for skilled, intermediate, or custodial nursing care only in a skilled facility.
l – Company has Best's rating of B or lower, or is not assigned by Best's.

[1] Represents one-twelfth of company's annual premium. Monthly premium, if available, would probably be higher.

[2] Composite rate means the company charges the same premium at all ages.

[3] Represents weekly premium.

[4] Benefit paid for one person; policy pays $80 for first spouse of a couple living together.

[5] Pays 80 percent of actual charge with maximum policy payment of $80 a day.

[6] Pays 100 percent of actual cost.

[7] Pays for "usual and customary" charges up to a maximum of $50.

[8] Pays 100 percent of "eligible" charges up to a maximum of $75.

[9] Pays this for skilled care, pays $50 for intermediate care and $25 for custodial care.

[10] Pays 75 percent of charges based on negotiated rates with participating provider.

[11] Daily equivalent of company's $2000 a month benefit.

[12] Pays half benefits for first 50 days, but waiting period does not apply.

[13] Pays for custodial care only.

[14] Depends on company's interpretation.

[15] Shorter benefit period.

[16] Reduced daily benefit.

[17] Only after 14 days skilled-nursing care.

[18] Benefits paid only after pre-confinement in skilled or intermediate facility; benefits are reduced and paid over a shorter period.

Insurance regulators look the other way

Every state has a department of insurance that's supposed to protect consumers by regulating the insurance policies sold in that state and by supervising the activities of insurance companies. But with few exceptions, regulators are reluctant to look too closely at long-term-care insurance policies, for fear that insurance companies will refuse to provide any coverage at all rather than tailor coverage to meet stern regulatory requirements.

"We are treating long-term care differently than other lines of insurance," says Fred Bodner, chief of the New York Insurance Department's Health and Life Policy Bureau. "We're not going to approve a policy if it's a rip-off, but we're not going to turn it down if it isn't wonderful."

The National Association of Insurance Commissioners (NAIC), which writes model laws for all states to adopt, has written one for long-term-care policies. So far, 11 states have adopted this model, and companies selling policies in these states must comply with its provisions.

States in which insurance policies must meet the NAIC standards are: Arizona, Hawaii, Indiana, Iowa, Kansas, Nebraska, North Carolina, North Dakota, Oklahoma, Oregon, and Virginia. Wyoming and Georgia were about to adopt the model law as we went to press.

The model has some good rules. Waivers denying coverage for specified health conditions are prohibited, and companies cannot offer substantially greater benefits for skilled nursing care than for custodial and intermediate care. Policies must also be guaranteed renewable, but state insurance commissioners may allow cancellation in limited circumstances.

The NAIC model permits other features we consider undesirable: Companies can require a hospital stay before providing benefits for nursing-home care, and can require that a policyholder receive skilled care before qualifying for intermediate, custodial, or home-care benefits. Although the NAIC model prohibits companies from excluding coverage for Alzheimer's disease, it doesn't require policies to specifically spell out that the disease is covered.

Not addressed by the NAIC model law is the need for standard language for long-term-care policies, much like the standard language found in a homeowners policy. Without it, consumers will be forced to rely on confused agents and equally confusing sales brochures.

When CU asked all 50 state-insurance commissioners what complaints had developed from the sale of long-term-care insurance, we learned that consumers complained most often about the unanticipated limitations on the coverage provided by their policies. Consumers believed that their policies covered them for a particular kind of care when, in fact, no such coverage existed.

Members of the NAIC advisory committee that wrote the model law considered requiring companies selling long-term-care policies to include the telephone number of the state-insurance department on forms given to policyholders who are thinking about replacing their policies. That way consumers could call their state regulators if they couldn't decipher a policy. But the committee scrapped the idea when insurance companies argued it would not provide a substantial benefit to consumers.

If insurance regulators don't help buyers of long-term-care policies, who will?

The average length of stay in a nursing home is

456 days

premium for his long-term-care policy had jumped a whopping 150 percent, from $180 to $450, in a single year.

Long-term-care policies don't have much of a history. As a result, insurance-company actuaries may be unable to predict nursing-home use or future costs accurately. Some insurance companies may be pricing their policies too low to cover the promised benefits in the future.

Are you insurable?

Someone who's sick and ready to check into a nursing home can't buy a policy from most companies. Many insurance companies have instructed their agents to weed out "undesirables" before applications reach the home office. If an agent sees that a person can't get out of bed alone or learns that a person has osteoporosis or Alzheimer's disease, the agent won't even deliver a sales pitch. An Aetna agent in Virginia told our reporter that she had to come to his office to hear the sales presentation, probably to see whether she could actually walk.

People who are turned down for life or health insurance might nevertheless be good risks for long-term-care insurance. "Someone with terminal cancer may be a better risk than someone with mild arthritis," says Karl Michaelson, director of health-products underwriting for Aetna. "We do not like to insure people who need aids in getting around—like walkers, canes, and oxygen."

Some companies are choosier than others. Rejection rates vary from 1 percent for Harvest Life, Pilgrim Life, and Federal Home Life to 30 percent for Finger Lakes Blue Cross/Blue Shield.

Many companies offer coverage to people with less-than-perfect health by applying "waivers," which exclude coverage for certain conditions. But buying a policy with a waiver for an illness that's likely to land you in a nursing home is a waste of money.

Instead of waivers, some companies offer coverage at higher rates to people who have health problems. Depending on the severity of the illness or condition, a "substandard risk" could pay as much as 100 percent more than a person whose health qualified him or her for the company's standard rate.

Evaluating the policies

We requested data from 81 insurance companies that sell long-term-care policies or that will start to offer them in the near future. Some told us they were withdrawing their policies and wouldn't have new ones ready in time for us to evaluate. Several companies, including Mutual of Omaha, United American, Combined American Life Insurance Co., American Integrity, National States Life, and Central

States Health and Life, declined to provide the information we requested. (We obtained policies and rate information on some of those companies from state insurance departments, but decided not to include these policies in the Ratings, because the data are incomplete.)

We've listed several policies twice, once with their home-care provisions and once without them. We've included two policies sold by MidAmerica Mutual Life, as well as both the old and new policies underwritten by Prudential for the American Association of Retired Persons.

The Ratings show the plans based on the daily benefit amounts and waiting periods that companies said were selected most often by their customers. If a company didn't tell us which of its plans was most popular, we chose one.

Some of the policies are group policies that have the same characteristics as individual policies. Policies sold by AARP are an example.

To rank the policies, we paid special attention to six main features that contribute to a policy's overall quality: nursing-facility coverage, home-care benefits, restrictions, renewability, relationship of benefits to premium and other aspects of pricing, and underwriting (the process of selecting applicants for coverage). We assigned the most points for quality of coverage and absence of restrictions. We also give bonus points to policies with liberal home-care provisions.

We also examined each company's financial stability, as judged by the A.M. Best Co., which rates insurance companies from A+ (superior) to C (fair). If a company's Best's rating is B or poorer (or if the company is not assigned a rating), we've considered it a disadvantage, since a low rating suggests some risk the company may not be around to pay future benefits.

Should you buy?

We don't recommend long-term-care policies for anyone under age 60 unless the policy offers a good way to keep benefits current with inflation in nursing-home costs. For those over age 60, a policy from one of the top-rated companies might be a reasonable choice. People whose income and assets are fairly modest should not buy long-term care policies. They would quickly qualify for Medicaid benefits should they need to stay in a nursing home.

The best policies cover care in all three types of nursing facility and offer generous daily benefits and benefit periods. They also have a good price in relation to those benefits.

Even the best policies had minor deficiencies in their coverage, however. For example, the Great Republic policy has a generous $80 benefit, paid for an unlimited period. But the policy restricts the benefit to a lower amount for the first 50 days of skilled care. It compensates for that restriction somewhat by not requiring a waiting period before paying benefits. And it is the only policy with a built-in inflation adjustment, a highly desirable feature.

The John Hancock policy offers a generous $100 benefit for six years, a period that should cover most nursing home stays, and its coverage has only a few minor limitations. Buying the policy could be a problem, however. The company estimates its rejection rate at 20 to 25 percent. A company spokesperson says that this rejection rate could drop as John Hancock agents acquire more experience selling the policy.

The most popular policies sold by Bankers Life and Casualty and its subsidiaries, Bankers Multiple Line, Certified Life, and Union Bankers, offer coverage for care in all three types of facility, and the policy specifically says Alzheimer's disease is covered. But these policies ranked somewhat below the top companies because of their relatively low daily benefit ($50), which is available for only three years for each nursing home stay.

A high premium doesn't always buy higher-quality benefits. For example, compare the American Progressive Life policy with the Life and Health of America policy, which ranked next to last.

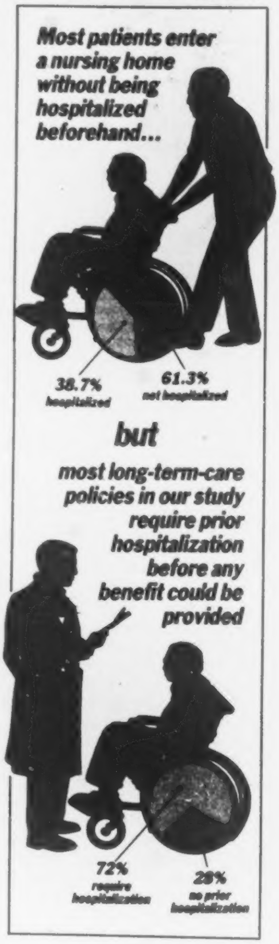
The former provides an $80 daily benefit for a monthly premium of $57.24. The policy offers benefits for three years for one nursing-home stay and five years for all stays. The Life and Health policy offers a skimpy $40 daily benefit (for only two years) yet commands a $100 premium.

Buying a policy through a group doesn't necessarily mean you'll get more for your money. Neither the policy recently sold through the American Association of Retired Persons nor the policy that will replace it this spring ranked highly. They impose a 90-day waiting period before nursing-home benefits begin and pay benefits for only three years. (Visits by home-health-care workers count toward satisfying the 90-day waiting period.) Neither policy, however, requires a stay in a hospital before benefits start.

The old AARP policy has no provision to continue coverage if the group contract is cancelled; the new one does. An AARP spokesperson says that people who have bought the old policy have assurances from AARP that coverage won't end.

Insurance companies have come up with some innovative ideas. For example, Metropolitan's Security Care Agreement for Group Health Cooperative of Puget Sound provides service in accordance with the principles of a health maintenance organization. Patients receive service instead of dollar benefits. Since the benefits offered by this plan will cover 100 percent of the actual cost of nursing-home care, they should hold up well against inflation.

This plan did have its drawbacks. It paid benefits for a relatively short time (4 years), lacked a waiver of premium, and had a high estimated rejection rate (20 to 30 percent).



Must you die poor?

Mary Ann Mattingly, of Indianapolis, looked forward to a comfortable old age when her husband James retired from his job as a security guard at the Eli Lilly Co. The Mattinglys lived reasonably well on the $744 a month he received from his company pension plan and from Social Security. They even managed to dine out on occasion.

But James's health slowly began to deteriorate. He became confused. He could no longer walk. He needed someone to help him eat. In 1979, at the age of 72, he checked into the Eastside Health Care Center, an Indianapolis nursing home. By the time James died in 1986, the Mattingly family, despite a lifetime of work and the security of a pension, had sunk into poverty. It was either that or do without the care James needed in his final years.

James's first year in the nursing home cost $12,000—about $3000 a year more than the family's total annual income. Mary Ann applied for help from Medicaid, the Federal and state program that helps the poor pay their health-care bills. She learned she was too rich for Indiana's Medicaid program. The Mattinglys had accumulated $5000 of Eli Lilly stock, $3000 in a passbook savings account, $2000 in life-insurance cash value, $5000 in a certificate of deposit, and $300 in a Christmas-club savings plan.

The only way Mary Ann could keep James in a nursing home was to become impoverished. Medicaid pays the bills only after the family assets and income run out. That usually doesn't take long. On average, 13 weeks elapse from the time a patient is admitted to a nursing home until the spouse left at home is impoverished. It took Mary Ann Mattingly only nine months to spend on nursing-home care most of what the family had accumulated. When she was poor enough, Medicaid stepped in.

Each state has its own Medicaid rules. Indiana allowed Mary Ann to keep $2250 of her family's assets plus her household furnishings. (If she'd owned a home, she could have kept that, too.) But nursing-home care still took $477 a month of the Mattinglys' $744 monthly income, leaving $238 to cover rent, gasoline and insurance for the car, and food, and $29 for James's incidental expenses.

Once she became poor, Mary Ann, who had never taken a hand-out in her life, qualified for food stamps—as much as $75 worth a month, but more often $30 worth.

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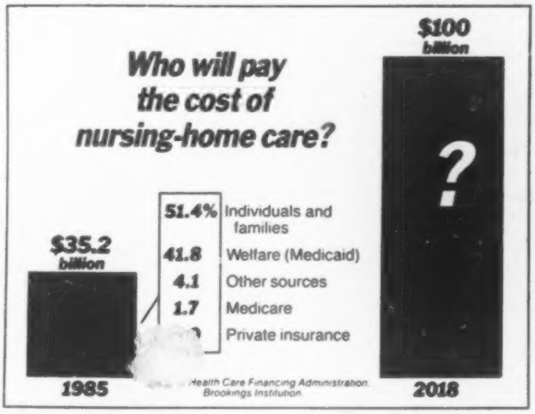

Health Care Financing Administration
Brookings Institution

Special Federal funds to help poor people pay for utilities sometimes paid for her heating bills.

The Medicaid rules did give Mary Ann one way to protect her assets and avoid poverty: divorce. After 32 years of marriage, she wouldn't consider it.

"It was horrible," says Mary Ann. "There's still anger in me. Nobody can understand until they've experienced it. A lot of people today don't know what they have in store." Indeed they may not.

In the year 2030, people over 65 will make up 21 percent of the population, up from 12 percent in 1985. The fastest-growing age group is the "old-old," people 85 and older. Their need for long-term care is greatest.

Nursing-home costs have gone up almost as fast as the age of the population. The average annual cost of a year's stay in a nursing home is now about $22,000, but the cost rises to as much as $45,000 in metropolitan areas such as New York City. Medicaid pays for nearly half of those stays. Federal expenditures for nursing-home care grew tenfold from 1965 to 1980 and will quadruple by 1990.

For years, health economists and social-service planners have seen the shadow of these costs looming. But long-term care for the elderly has only recently won a place on the national agenda—as a seemingly intractable problem for the debt-ridden Federal government, as a giant financial headache for state governments that share the cost of the Medicaid program, as a painful crisis for more and more families, and lately as a marketing opportunity for insurance companies.

What to do?

In 1986, the Secretary of Health and Human Services, Dr. Otis Bowen, issued a report pointing out that Medicare, the health-insurance program for the elderly,

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did not protect people from the high costs of a catastrophic illness. The report focused attention on the financial consequence of stroke, heart attack, and other medical catastrophes. The reaction to the report spurred Congress to pass bills expanding Medicare to include coverage for catastrophic illnesses of *limited* duration.

But none of the bills do anything to help families pay for long-term care—the greatest source of economic catastrophe. Eighty percent of health-related costs that exceed $2000 a year are due to nursing-home and other long-term-care expenses.

Who then will pay?

The Reagan Administration's answer, echoed by the health-insurance industry: Consumers should buy long-term-care insurance policies, of the type rated in the accompanying report. That set off a small boom in this new insurance product. Unfortunately, few of the insurance policies we looked at adequately meet the need. And the cost of these policies—as much as $1230 a year for a 65-year-old—may well be beyond the means of those who need protection most.

Even those who can afford such policies for themselves or for their parents may find insurers unwilling to sell, usually because the person to be insured is already a candidate for a nursing home. Insurance companies aren't eager to insure people who are almost certain to generate a claim. A few companies in our survey estimated that they turned down as many as 20 or even 30 percent of potential buyers.

Insurance companies would prefer to market their policies to employers, who in turn would offer them to their employees, thus encouraging younger people to buy the insurance when they are still insurable and when the rates are low.

But private insurance for long-term care is a tough sell to employers and employees alike. Employers, some of whom already face huge liabilities for current and former employees' conventional health insurance, are unlikely to pick up the tab for yet another kind of insurance now or in the near future. At most companies that do offer long-term-care insurance, employees must pay the entire premium. But healthy workers either do not know what's ahead for them (estimates are that as many as one of every two people who reach age 65 will eventually land in a nursing home) or prefer not to think about it just yet. When Aetna Life Insurance Co. offered long-term-care coverage to its own employees, only 7 percent bought it. Ten percent of its retirees signed up.

A recent study by the Brookings Institution, using generous assumptions about people's ability to pay for long-term-care policies, predicted that by the year 2018 private insurance would cover only 7 to 12 percent of all nursing-home expenses. Brookings researchers believe that, at best, only one-quarter to one-half of the elderly would buy long-term-care policies.

Thus, for many low- and middle-income families, Medicaid and its prerequisite—spousal impoverishment—will remain the only feasible way to pay for long-term care, unless we find a better way.

Expanding the safety net

Soon the Federal government—and American taxpayers—will have to face the increasingly urgent need for a new social-insurance program that helps chronically ill and disabled people with the costs of long-term care before those costs impoverish them.

The need for universal long-term-care protection can be met through a new mandatory insurance program that complements Medicare and replaces the long-term-care portion of Medicaid. Or the current Medicare program could be expanded to include voluntary insurance paid for by premiums charged to participants.

The private insurance system can't spread its costs over a large enough number of people to minimize the financial burden on any one person. Only the Federal government can do that. Funding long-term-care insurance through general revenues spreads the cost among everyone who's a future candidate for long-term care. And making the insurance available to (and required of) everyone eliminates the eligibility standards that now effectively withhold private insurance from those who need it most. A Federally mandated insurance program would also eliminate Medicaid nursing-home coverage, and with it the costs and stigma associated with Medicaid.

So far, however, the only long-term care proposal to surface in Congress addresses long-term care only at home, not in a nursing home. A bill introduced by Claude Pepper, the Democratic Congressman from Florida, would provide a range of home-care, physical-therapy, and homemaker services to the chronically ill elderly and to disabled people of all ages. It would be financed by applying that portion of Social Security taxes that pays for Medicare (1.45 percentage points) to all earned income rather than to the first $45,000 of income, as at present. Some 5 percent of American workers earn more than $45,000 a year; they pay a proportionally smaller tax for Social Security and Medicare than do the great majority of workers who earn $45,000 or less.

Although the Pepper bill, if it passes, may help keep some ill or disabled people out of institutions, it is only a first step toward correcting a health-insurance system that forces too many people into poverty. The bigger step—universal coverage for long-term care no matter where the service is rendered—remains to be taken. ■

What's available now

Program	***Nursing home***	***Home care***
Medicare	Skilled-nursing care covered only in approved facilities: 100% of eligible expenses for 20 days; all but $67.50 a day for next 80 days; nothing after that; no custodial or intermediate care.	Only part-time, intermittent skilled care and speech or physical therapy covered. Person must be confined to home and care-provider must agree to reimbursement under Medicare rules.
Medicaid	Skilled, intermediate, and custodial care covered once a person's assets and income drop below state Medicaid limits.	Part-time nursing and home-health aids provided if requested by physician for those eligible for Medicaid. States have the option to offer a variety of non-medical home-care services.
Medicare supplement policies	Benefits range from nothing to the policy limits for sharing the cost of care for days 21-100; after that, policies pay a set amount each day. Custodial or intermediate care usually not covered.	Usually nothing covered.
Ordinary health insurance policies	Very limited post-hospital, convalescent, skilled-nursing care covered, but usually no custodial or intermediate care.	Very limited post-hospital convalescent care may be covered.
Veterans Administration	Skilled-nursing care provided only in VA facilities on a space-available basis for eligible veterans.	Chronically ill eligible veterans, eligible for medical, nursing, and rehabilitative care.

UPDATE

PAYING FOR A NURSING HOME

Our May 1988 report found many policies for long-term care to be expensive and riddled with loopholes. The picture has improved, but it's still far from perfect.

After a bout with double pneumonia, Anna Indergaard entered a nursing home in Carrington, N.D., expecting that the policy she had bought six months earlier from Acceleration Life would pay the bill. But as soon as she filed for benefits, Acceleration dug into her health history and found that in 1980 she had been hospitalized for a circulatory condition. The company canceled the policy even though the circulatory condition was not the ailment that sent her to a nursing home. Had it known about this disorder, Acceleration said, it would not have issued the policy.

The application had asked Indergaard to list only the health problems she had in the last five years. She didn't mention the circulatory condition since it had occurred seven years earlier. Nevertheless, Acceleration said she had lied on her application.

Only after the North Dakota Insurance Department intervened did Acceleration agree to pay Indergaard's nursing-home bills.

Viola Holland of Watsonville, Calif., paid one annual premium of $1505 for a long-term-care policy sold by Pioneer Life. During the sales presentation, Holland told the agent that she had been hospitalized for valley fever, which might eventually cause kidney failure. Yet the agent marked "no" where the application asked about kidney diseases and disorders.

Sometime after the agent delivered the policy, along with the application she had signed, Holland discovered the misstatement and immediately notified the insurance company. The company told her not to worry; she was covered because she didn't have kidney failure at the time she signed the application.

When her kidneys did fail nine months later, she entered a nursing home. But instead of paying the $80 daily benefit, Pioneer rescinded Holland's policy and later returned her premiums—insisting that Holland had misstated her medical history.

After five months in the nursing home, Holland died. Eventually her family received $9200 from Pioneer Life, but not without the help of the California Department of Insurance and a senior-citizens advocate, who wrote numerous letters on their behalf.

Ella Vallier was 93 when an agent persuaded her to buy a long-term-care policy from Providers Fidelity. During the sales pitch, Vallier's granddaughter told the agent that her grandmother had a heart condition but had refused to be hospitalized for a confirming diagnosis. On the application, the agent wrote "no" where it asked if the applicant had ever refused advice to go to a hospital or nursing home. "Usually with the heart they go just like that," he reassured Vallier's granddaughter.

Nearly a year later, Vallier suffered a stroke, which was unrelated to her heart condition, and was sent to a nursing home in Santa Cruz, Calif. When her family filed for the $60 daily benefit under the policy, the company refused to pay.

The Vallier family was not as lucky as the others. The California Department of Insurance has so far been unable to persuade Providers Fidelity to pay $20,000 in benefits to Vallier's heirs.

An insidious practice

Indergaard, Holland, and Vallier were all victims of "post-claims underwriting"—the practice of checking a policyholder's medical history only after a claim is filed, instead of when an application is taken. If, within two years, a company discovers an undisclosed health condition that would have caused it to reject the application in the first place, it may deny benefits, cancel the policy, or both.

Driven by the need to grab a share of the growing market for long-te[illegible]are insurance and pressured by agents unwilling to wait weeks for their commissions while the home office checks an applicant's medical records, some companies determine applicants' eligibility simply by asking them a few questions about their health.

If the answers indicate no serious past diseases or medical conditions, the company usually issues the coverage without checking the accuracy or the completeness of the answers. If the answers do reveal a medical condition, the company may either reject the application or check the applicant's medical history more thoroughly before issuing a policy. Only a few companies, such as AMEX Life Assurance, require an attending physician's statement with every application.

But companies using those lax procedures for determining eligibility can suddenly get tough if a policyholder is admitted to a nursing home during the policy's "contestable period"—two years in most states. During that time, a company can legally rescind a policy and return all premiums if it discovers a policyholder has misrepresented relevant facts on the application and it relied on those facts in issuing coverage.

After the contestability period is up, companies can still deny coverage if they can prove fraudulent statements were made on the application. If the undisclosed condition would have disqualified the applicant, the company may rescind the policy even if the condition is different from the one that ultimately put the policyholder in a nursing home.

Cracking down

"These issues are prevalent throughout the country," says Earl Pomeroy, vice president of the National Association of Insurance Commissioners (NAIC). The NAIC, which writes model laws for all states, is considering a number of options to crack down on underwriting abuse. These would require that:

- Applicants, rather than insurance agents, fill out the medical questions on the application.
- A prominent notice go on the application warning prospective pol-

icyholders to answer all questions truthfully.

- Insurance companies report all policies they've rescinded, so that state insurance departments could spot abuses and police companies more adequately.

- An attending physician's statement be submitted for all applicants over age 75 or 80.

But we think stronger medicine is needed. The contestable period should be reduced from two years to one year. That would force the companies to evaluate applicants at the outset, before they need nursing-home care—and the money to pay for it.

Trapped by technicalities

Policies for long-term care may hold other traps—language that companies choose to interpret narrowly and limitations that insurers can use to reduce or deny coverage.

Margaret Ballard, age 86, purchased a policy from Equitable Life and Casualty. Last December, after a fall left her unable to walk, she was admitted to the Cascade County Convalescent Nursing Home in Great Falls, Mont. There, she fell again, breaking her arm and injuring her back. After a brief hospital stay, she returned to the nursing home for skilled-nursing care at a cost of $59 a day.

Equitable paid for 10 days of skilled-nursing care, but then it decided that Ballard was no longer eligible for the skilled-care benefit—even though Medicare said she needed skilled care and was reimbursing the nursing home accordingly. Equitable claimed that the policy required Ballard to take physical therapy to qualify, despite the fact that the injury to her arm made such therapy impossible for a time. Without the therapy, Equitable said, she qualified only for custodial care, which helps with such routine activities as eating, bathing, and dressing. It reduced its payment to the $40 custodial benefit the policy allowed.

A fellow patient at the nursing home also had a policy from Equitable, but he didn't collect a dime. Medicaid, which paid his bill, said the man needed intermediate care, which involves daily nursing but not 24-hour attention. But according to Equitable, the man needed only custodial care, and his policy didn't cover that.

"Insurance companies are making their own rules as far as what's covered in skilled care," says Jeff Piper, operations administrator of the nursing home. "Now it doesn't matter whether Medicare or Medicaid says a patient needs skilled care. I'm seeing more and more people turned down because they don't meet the policy's guidelines."

The insurance industry has no standard definitions for "skilled," "intermediate," or "custodial" care. One company's definition of skilled care may differ from another's, and both may differ from Medicare's. If a person's medical condition doesn't fit the policy's definition, he or she may be out of luck.

(Ken Surfass, corporate counsel for Equitable, concedes that there can be arguments over what constitutes skilled care, especially in cases where Medicare doesn't pay.

PROTECTING YOURSELF

RULES TO REMEMBER

It's impossible to know in advance how an insurance company will behave when you need to file a claim on a long-term-care policy. Until more claims have been filed, and until insurance regulators make public the records of companies engaging in post-claims underwriting, you must protect yourself. These steps will help:

1. Answer all questions on the application truthfully and completely. If an agent tells you not to list some health condition, do it anyway. Insist that the application be filled out truthfully—or find another agent.

2. During the free-look period (the 30 days after the policy is delivered during which you can cancel and get your money back), check the application you signed. The application becomes part of the policy, and the company can later use it to rescind your coverage. Make sure the agent has answered the questions correctly and hasn't changed any of your answers. If you spot any errors, notify the company at once, and try to get the company's response in writing.

3. Beware of agents who insist they can get you coverage in 24 or 48 hours or some similarly short time. That may be a signal the company will wait until you file a claim to determine your fitness for coverage. You may be better off with a company that examines your medical history and requires an attending physician's statement before issuing the policy. A policy from a company that has easy issuing requirements may be of no value later, when the company decides to take a harder look at you.

4. Be wary of a company willing to issue a policy to someone over age 85. A company eager to issue coverage to very old people may have less intention of paying the claims that inevitably will follow. Check with your state insurance department to see if it has information on how the company pays claims, especially those made by the very old.

5. Avoid policies that require you to be hospitalized before a nursing-home stay and those that require a prior level of care before benefits are payable. Even though the model law written by the National Association of Insurance Commissioners prohibits such restrictions, not all states have adopted the model, and there are still policies sold with these limitations. They could cause you or your family a lot of grief later.

6. Carefully read the policy's definitions for levels of care. If the policy says it pays for skilled, intermediate, and custodial care, make sure it pays for them in any type of facility, not just one specializing in skilled-nursing care. If the definitions seem too restrictive, look for another policy. Some policies make no distinction among levels of care. They will pay for any type of care in any licensed facility. It's worth considering these less-restrictive policies to avoid haggling over definitions when the need for care arises.

7. Buy one good policy. If you have a policy and want either higher benefits or less-restrictive coverage, ask your present company about upgrading it. Upgrading from your own company may be cheaper than buying a new policy from a different company and paying the company's expenses, including the agent's commission, all over again. (Some companies offer policyholders a chance to upgrade without rechecking their medical condition. Ask if your company will do this. However, if you have a chronic health condition, you may not be able to switch.)

If your company won't upgrade your policy by, for example, eliminating the requirements for prior hospitalization or prior levels of care, you should shop for a new company. But keep your old policy until you have received the new one.

8. If you own a policy, make sure a friend, family member, or your doctor knows where it is, when the premiums are due, and how to submit claims to the insurance company.

By the year 2000, more than eight million Americans who are 65 and older will need some kind of long-term care. Some 40 percent of all the elderly will spend time in a nursing home before they die.

To eliminate such arguments, Equitable's new policies no longer make a distinction between skilled, intermediate, and custodial care. Policies now coming on the market simply say Equitable will pay for any long-term care in a licensed facility.)

Distinctions between levels of nursing-home care may deprive patients of benefits in other ways, too. When Gordon Finke entered a North Dakota nursing home for numerous ailments, Medicare determined he needed skilled-nursing care and paid for 25 days of it. National States Insurance, the company that sold his long-term-care policy, said he needed only custodial care and refused to pay the $60 benefit the policy provided for skilled care. Then it also refused to pay any benefit for custodial care, because the policy said custodial care would be covered only after five days of skilled or intermediate care had been paid for by the policy.

Some recent improvements

When we reported on long-term-care policies in 1988, this type of coverage was so new that insurance companies knew little about the potential cost of claims. They therefore riddled their policies with restrictive language intended to limit coverage and reduce the amount they would eventually have to pay to policyholders.

We followed up with a new survey this summer to see if insurers were improving the terms in new policies offered consumers. Here are the changes we found in the major restrictions noted in our 1988 report:

Prior hospital stays. Seventy percent of the policies we examined last year paid for a nursing-home stay only when it was preceded by at least three days in a hospital for the same condition that required nursing care. Usually a person had to enter a nursing home within 30 days after leaving the hospital. Other policies required a "prior level" of nursing care before benefits are paid—that is, they would pay for "custodial care" only after a period of "skilled" or "intermediate" care paid for by the policy.

About half of the 24 insurers responding to our 1989 survey said they were phasing out policies requiring prior hospital stays, while others said they had eliminated requirements involving prior levels of care in their new policies. John Hancock, for instance, said it no longer required 14 days of skilled-nursing care before paying custodial benefits.

Insurers are responding not only to public criticism of these limitations but to the model law and regulations drafted by the NAIC. Those outlaw policy restrictions related to prior hospital stays and prior levels of care. Two-thirds of the states have adopted either the model law or the regulations. Insurers selling in states that haven't yet passed the model or that have adopted weaker provisions are free to continue selling the restrictive policies, and a few said they would do so as long as they could.

In states where the restrictive policies remain legal, some companies now offer a choice between policies that require a prior hospital stay and more expensive policies that don't. Our 1988 Ratings showed only one company, MidAmerica Mutual, that offered coverage with and without the prior-hospitalization rule.

Among companies citing a price difference between the two plans, differences vary substantially. At Equitable Life and Casualty, the difference is only 5 percent, but at Continental Casualty, it's 30 percent. One company in our 1989 survey, Federal Home Life, removed the requirement for prior hospital stays but did not increase premiums.

As an alternative to prior hospital stays and prior levels of care, some companies have begun using "activities of daily living" standards to determine if a policyholder needs nursing-home care. These standards measure whether a person can perform such routine tasks as walking, eating, bathing, or dressing. If a policyholder is unable to perform, say, two or three of these activities, the company considers the person eligible for nursing care and pays benefits.

Requirements for prior hospitalization and prior levels of care are overwhelmingly important in determining whether you will actually receive benefits from your policy. The table on the next page points out which companies still sell policies with those restrictions and which ones are designing new policies using the less onerous activities-of-daily-living standards.

Preexisting conditions. Most policies in 1988 required a waiting period before they would cover policyholders for health conditions present at the time the policy was written. Since our earlier survey, some companies have eliminated or shortened these waiting periods. AMEX Life Assurance now has no preexisting-conditions clause in its newest policy, and Colonial Penn has decreased the waiting period on its policies from 12 months to six.

Guaranteed renewability. In 1988, we found that some policies were "conditionally" renewable; that is, companies could refuse to renew a policy as part of a decision to abandon an entire class of policyholders, such as all those living in a particular state. Now many of these companies have made their policies renewable for the policyholder's life. In states that have adopted the NAIC model regulation, individual policies can no longer be canceled just because an insurance company wants to dump a group of policyholders. The model regulation also protects those who have bought long-term-care coverage through groups. If the group policy is canceled, certificate holders can continue their coverage at the same rates, or they can convert to a new policy that is substantially like the old one.

Alzheimer's disease. In our first look at these policies, we found that many were ambiguous about coverage for Alzheimer's and related degenerative and dementing diseases, conditions that often send people to nursing homes. Some companies now report that their policies specifically spell out that those diseases are covered. The NAIC model regulation requires that companies not exclude coverage for policyholders who develop Alzheimer's disease.

Inflation protection. In 1988, few policies had provisions to increase benefits in line with inflation. More companies are now selling riders that give policyholders the option of coverage indexed to inflation. Lack of inflation-protection can be a significant drawback with long-term-care policies, especially if they are purchased by people who are unlikely to use them until 10 or 20 years pass.

Home-care benefits. Most of the companies in our earlier survey offered home-care benefits, which pay for nursing care in a person's home. But they usually required a stay in a hospital or nursing home first. A few companies have eliminated prior hospitalization and prior levels of care; others have lengthened the period of time they will pay for home care.

Nonforfeiture benefits. These benefits, which are required in life-insurance policies, return to policyholders part of what they have paid for the policy if they choose to cancel their coverage or if coverage lapses because they've forgotten to pay the premium. Last year virtually none of the companies in our survey offered nonforfeiture benefits on their long-term-care policies.

Of the companies responding to this year's questionnaire, only four—Bankers Life and Casualty, Metropolitan, Penn Treaty Life, and Travelers—offer some kind of nonforfeiture or return-of-premium benefit. Companies not offering these benefits say they would add to the cost of their policies. AMEX Life Assurance, for example, told us it decided to skip such a benefit in order to keep premiums lower.

Even though the model law and regulations mandate substantial improvements in long-term-care policies, they do nothing to improve the old policies. There are some 800,000 of these older, more restrictive policies still in force. ■

LISTINGS

Long-term-care policies

The table below shows whether the 24 companies responding to this year's questionnaire have changed their policies since our last survey. The two righthand columns show how each company treats two key eligibility requirements for paying benefits: prior hospital stays and "activities of daily living" (ADL) standards. Many policyholders have not received benefits because of requirements for prior hospital stays. The companies are listed alphabetically.

1 Last year's policy. Indicates whether the company is still selling the policy we rated in May 1988.

2 No prior hospitalization. Indicates that the policy we rated last year did not require prior hospital stays.

3 New policy. Indicates whether the company is selling a new policy.

4 Dual option. Indicates whether the company offers a choice of policies, one with and one without requirements for a prior hospital stay.

5 ADLs. Indicates whether the company is planning to use "activities of daily living" (ADL) standards to determine eligibility for benefits, rather than prior hospital stays and prior levels of care. ADLs look at a patient's ability to perform routine daily activities such as eating and bathing.

Company	Last year's policy 1	No prior hospitalization 2	New policy 3	Dual option 4	ADLs 5
Aetna	✓	—	—	✓	[1]
AIG Life	✓ [2]	—	—	✓	✓
AMEX Life Assurance	—	—	✓	—	✓
Bankers Life and Casualty	✓ [2]	—	—	—	—
Blue Cross of Washington & Alaska	[3]	✓	—	—	—
Colonial Penn	—	—	✓	—	✓
Continental Casualty	✓	—	—	✓	—
Equitable Life and Casualty	✓ [2]	—	✓	✓	—
Farwest American	✓	✓	—	✓	—
Federal Home Life	✓ [2]	—	—	—	—
Finger Lakes Long Term Care Insurance Co. (Blue Cross Blue Shield of Rochester)	—	✓	✓	—	[4]
Great Republic	✓	—	✓	—	—
John Hancock	✓ [5]	✓	—	—	✓
Life Insurance Co. of Connecticut	✓ [6]	—	✓	—	—
Metropolitan	—	✓	✓	—	✓
MidAmerica Mutual	✓	[7]	—	✓	—
Mutual Protective	✓	✓	—	—	—
NN Investors	—	—	✓	✓	—
Penn Treaty	✓	—	✓	✓	✓
Prudential/AARP	—	✓	✓	—	—
Reserve Life	✓	—	—	—	—
Travelers	—	✓	✓	—	✓
United General Life	✓	—	—	✓	—
World Life & Health of Pennsylvania	—	—	✓	✓	✓

[1] *Company refused to answer question.*

[2] *Eliminated requirement for prior hospital stay from last year's policy, or made option available as a rider.*

[3] *Discontinued last year's policy and is not selling a new one.*

[4] *Uses assessment tool that evaluates functional, cognitive, and behavioral impairments.*

[5] *Selling only comprehensive version.*

[6] *Sold only in Rhode Island.*

[7] *We evaluated policies with and without prior hospitalization requirement.*

Consumers
Union
Publisher of Consumer Reports

November 27, 1989

The Honorable David Pryor
United States Senate
Washington, DC 20510-6250

Dear Senator Pryor:

Thank you for the opportunity to testify at the hearing of the Subcommittee on Federal Services, Post Office, and Civil Service on the Federal Employees Long-Term Care Insurance Act of 1989.

Enclosed are my responses to the follow-up questions I received from you and from Senator Wilson.

Sincerely,

Gail Shearer

Gail Shearer
Manager,
Policy Analysis

Enclosure

cc: The Honorable Pete Wilson

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CONSUMERS UNION RESPONSES TO QUESTIONS SUBMITTED BY SENATOR DAVID PRYOR

1. It is difficult to be conclusive about how responsive the long-term care insurance market is to consumers, since it is in so early a stage of development. There are some positive developments recently described by Consumer Reports: In our October 1989 article **Update: Paying for a Nursing Home**, we found that several companies were phasing out "prior hospitalization" requirements, some companies are eliminating or shortening waiting periods before policies would cover policyholders for pre-existing health conditions, some companies now explicitly cover Alzheimer's disease, more companies are selling riders that provide an option of some protection against inflation, and some companies have expanded their home care benefits. It is difficult to tell how much of these market changes result from responsiveness to consumers as opposed to response to pressure from state insurance regulators. It is also important to point out that these changes are not universal, nor are they necessarily as substantial as consumers would want. Inflation protection, for example, is typically limited to a fixed amount (e.g., 5 percent) for a limited time period (such as 10 years).

   There are some very real consumer protection problems, similar to problems that are prevalent in the Medigap market, that concern us. Some of the problems include:

   -- Agent abuses. In the medigap market, there is a long history of agent abuses with catchy names such as "twisting," "rolling over," and "overloading." We have already found victims of the troubling practice of "post-claims underwriting" -- the practice of checking a policyholder's medical history only after a claim is filed, instead of when an application is taken. This practice leaves the consumer without the protection he or she thought she had, and helps the company avoid paying out benefits for legitimate claims.

   -- Low value. The consumer confusion and unavailability of objective counseling create a market that allows low value products to survive and even flourish. We expect that many commercial long-term care policies will divert around half of the premium dollars collected to pay for administrative costs, marketing, and profits. We fear that the wasteful record of the medigap market will be repeated in the long-term care market.

   -- Inadequate inflation protection. While medigap policies provide protection against acute health care costs that occur within a short time period, long-term care policies are typically expected to provide benefits far in the future, many years after they are initially purchased. To date, companies have responded inadequately to the need to protect consumers against the erosion of benefits caused by inflation. We have submitted to state insurance regulators a proposal to address inflation in long-term care policies, and hope that they will act quickly to ensure that consumers have the protection they expect.

2. We believe that objective health insurance counseling services should be readily available to all of the Medicare-eligible. Insurance agents are trained to sell a product. Sometimes this training includes how to prey on the fears of senior citizens who are concerned about future health care costs. The agent is not the best person to review -- in an unbiased way -- what is best for a consumer. Numerous Congressional Committees have extensive hearing records showing how consumers have been victimized by agents who sell them multiple policies -- 12, 18, 27 policies, often a combination of Medicare supplement insurance, long-term care insurance, and life insurance.

   Counseling programs in some states have succeeded in advising consumers about policies that they can safely drop, saving consumers millions of dollars. At least 12 states (California, Idaho, Illinois, Iowa, Maryland, Massachusetts, Missouri, New Jersey, North Carolina, Ohio, Vermont, and Washington) have statewide counseling programs. We believe that senior citizens in all states should have access to objective counseling services.

3. Conventional wisdom holds that life insurance needs decrease over time. It is certainly possible that if S.38 is enacted, millions of people will drop life insurance coverage to purchase long-term care insurance. The life insurance policies that are dropped could make the difference between living comfortably and living near the edge of poverty (or even in poverty) for some widows or widowers. Balanced against this concern would be the financial devastation that would be prevented because of long-term care benefits.

   I am particularly concerned that some younger families -- who still have substantial life insurance needs -- may inappropriately drop life insurance coverage to buy long-term care coverage. It is very common these days for people in their 50's to have children who are in their teens and even younger. Three families on my block alone will each have three teenagers when the parents of the family turn 50. The financial consequences of death of a such a breadwinner can be devastating if he or she has inadequate life insurance.

4. Some of the elements of a model long-term care program for federal employees would include:

-- True Inflation Protection. The long-term care policy would increase benefits using a cost index such as the medical care component of the CPI. Increases would be compounded, and would continue for the life of the policy. (An option for somewhat less inflation protection might be included, but should provide increases of no less than 75 percent of inflation.)

-- Benefit Level Options. The policy should either offer service benefits at a substantial level (e.g., 80 percent of nursing home or home care costs) or substantial indemnity levels such as $80 to $100 per day. Low, medium, and high benefit levels might be offered (e.g., $60, $80, $100 per day benefit).

-- Home Care Benefits. In addition to nursing home benefits, the policy should provide substantial benefits for home and community-based care. Home care benefits should not be conditioned on prior hospitalization or institutionalization.

-- Institutional Benefits. Nursing home benefits should be provided for all licensed nursing homes (whether they be skilled nursing facilities, intermediate care, or custodial institutions). Benefits should be provided for all types of care (skilled, intermediate, and custodial). Benefits should not be conditioned on a prior hospital stay or care in a more skilled nursing facility.

-- Gatekeeping. The method for determining eligibility for benefits should be fair to policyholders.

-- Nonforfeiture benefits. Policyholders who choose to drop their policy should be eligible for a refund or for a reduced level "paid-up" benefit.

-- Portability. Policyholders who change jobs should be able to retain their policy at reasonable terms (or discontinue their policy with appropriate benefits).

-- Good value. Policyholders should be assured that only a small portion of their premium dollars are diverted to pay for administrative costs. The Office of Personnel Management should require that the successful bidder(s) meet a minimum projected loss ratio requirement that is appropriate for group policies, probably in the range of 75 percent to 80 percent. OPM should monitor the levels of revised projected loss ratios and actual loss ratios.

-- Education. Prospective policyholders and policyholders should have access to an objective, competent source of information about the long-term care insurance policy (as well as life insurance and other health insurance). Skilled counselors should be available to assist in making decisions.

5. The May 1988 and October 1989 articles in Consumer Reports provide detailed analysis that is aimed at helping consumers distinguish between a good and bad long-term care policy. Some factors for consumers to consider include:

-- Does the policy pay a substantial portion of nursing home costs (e.g., at least $80 per day)?

-- Does the policy pay home-care benefits without requiring nursing home care or a hospital stay?

-- Is prior hospitalization required before nursing home benefits are paid?

-- Are benefits fully indexed to medical care inflation?

--- Are nursing home benefits paid for skilled-nursing, intermediate and custodial facilities?

-- Are all levels of care covered, including skilled, intermediate and custodial?

-- Is the waiting period before benefits begin appropriate for the individual?

-- Is the maximum benefit period appropriate for the individual?

-- Does the policy offer nonforfeiture benefits?

-- Does the company have a Best's rating of A or A+?

-- Does the company (or the agent) have a good record with the state insurance department?

-- Is the premium in line with the benefits offered?

-- Does the company screen out high risks? Is the consumer likely to qualify for the company's policy?

CONSUMERS UNION RESPONSE TO QUESTIONS SUBMITTED BY SENATOR PETE WILSON

1. In my response to Senator Pryor's Question #4, I outlined the features that we believe should be included in a long-term care plan for Federal employees. The key elements include:

   -- true inflation protection;
   -- benefit level options that pay a substantial portion of long-term care costs;
   -- home and community-based care, without prior institutionalization requirements;
   -- institutional benefits for all licensed facilities (skilled nursing, intermediate, and custodial) for all types of care (skilled, intermediate, custodial), without a prior hospitalization or higher level of institutionalization requirement.
   -- fair gatekeeping system;
   -- nonforfeiture benefits;
   -- portability;
   -- good value for premium dollar; and
   -- education and counseling services.

2. We continue to hope that within the next few years, Congress will be able to design (possibly with a gradual phase-in period) a public long-term care program. We have outlined consumer-oriented options at various budget levels.

   In the near-term, if virtually no new federal money is available for long-term care, then we support the development of a voluntary long-term care program that could be available through the Medicare program (a Medicare Part C). Our second choice at a minimal funding level would be for Congress and/or state insurance regulators to dramatically improve the regulation of this product. We believe that standardization of the market would help consumers understand it better and buy appropriate coverage. Both these options, unfortunately, leave unaddressed the very real and financially devastating long-term care problems of people under age-65.

   S.38, if improved to address the concerns we have raised, has the potential to become an important step toward improving access to long-term care coverage. It is crucial, however, that the concerns we have raised be addressed so that it can truly serve as a positive model for the private sector to follow.

3. The question of whether senior citizens with sufficient income and assets to pay for long-tern care is a very important one. We prefer a universal program, with benefits for all people regardless of income. The Medicare program is a good example of the type of structure we have in mind. Virtually all

workers pay in to the Medicare system through an income-related tax, and benefits are allocated according to health needs. Long-term care benefits that are distributed through the Medicaid system are distributed according to health need **but only to people whose income and assets are low enough for them to qualify.** The result is that many moderate and high income people pay taxes through their working lives to pay the bill for approximately 43 percent of all long-term care costs, but never benefit themselves. People who are very poor or spend-down their income and assets are eligible for benefits. But there is another group of beneficiaries: the middle and high income elderly who have sophisticated legal and financial counseling. These people are able to divest their assets so as to qualify for long-term care benefits under Medicaid. Any income-based system will provide an incentive for people to game the system to qualify for benefits. Since the public as a whole already shares so large a part of the long-term care cost, and since benefits are distributed so inequitably in an income-based system, we believe the fairest way to pay for long-term care benefits is through income-related taxes and universal benefits. At the same time, however, we do believe that some degree of income-based cost-sharing could be included in a public long-term care program. For example, nursing home benefits might begin after a waiting period; the waiting period could be waived for people with incomes below two times the poverty level.

4. There are a number of problems with the long-term care insurance market that are fixable through vigilant efforts of the Congress and state regulators. Problems that fall into this category include: inappropriate gatekeeping techniques such as prior hospitalization, inadequate protection against inflation, the absence of nonforfeiture benefits, restrictions in type of facility or type of care covered, unscrupulous agent practices. But there are an array of problems that the private long-term care insurance market can not solve, even with the most aggressive regulatory techniques. The private market can not cover senior citizens who have significant health risks that keep them from qualifying for a policy. It is not designed to protect a young family from the financial devastation caused by a paralyzing accident to the father or mother or a birth defect of a child. The high cost of comprehensive long-term care policies make them inaccessible to most people, and this situation will only get worse as policies improve to protect against inflation or to include nonforfeiture benefits. These concerns lead us to conclude that the public sector should take the lead in solving the long-term care problem. There may well be a role for the private sector, but the private sector should be filling small gaps in a primarily public system. Otherwise, the private sector will cream the best risks, leaving the poor, the middle income, and the unhealthy to forced impoverization and a

public system.

5. 18 of the 53 policies reported on in May 1988 had an optional inflation rider or other arrangement which increases benefits by a set percentage each year for a certain number or years. This should not be confused with a true inflation adjustment, indexed to health care cost inflation, for the duration of the policy. These riders typically limit benefit increases to a fixed among (e.g., 5 percent) for a limited amount of years (e.g. 10 years).

6. The Consumer Reports study considered individual long-term care policies only. We have not analyzed group products, so are not in a position to make any firm conclusions. However, in general, group policies tend to have higher loss ratios due to their lower administrative costs. In addition, the fact that employers have access to professional advice in selecting group insurance plans helps to assure that group products have relatively favorable terms for the policyholders.

7. Consumer awareness is indeed a major issue when one is discussing long-term care insurance. The need for objective information about these policies has led Consumers Union to support nationwide health insurance counseling programs for senior citizens. Health insurance, and particularly long-term care insurance, is extremely complicated. We believe that effective comparison shopping is virtually impossible in the market that is characterized by literally hundreds of variations in the policies on the market. Our concerns have led us to support standardization of this market, in order to facilitate comparison shopping.

   We do not believe that consumer awareness is the only problem. There should be a minimum level of benefits in long-term care policies. There are too many restrictions and fine-print exclusions in many long-term care policies. These often lead to much suffering and devastating financial consequences when policyholders are denied the benefits they had counted on. State regulators have worked hard and need to continue to work hard to raise the minimum standard level that should be required of all long-term care insurance policies.

Testimony on the "Federal Employees Long-Term Care Insurance Act of 1989," S.38

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* These opinions are those of the author and should not be attributed to other staff members, officers, or Trustees of the Brookings Institution.

Testimony presented at a hearing on long-term care, Subcommittee on Federal Services, Post Office, and Civil Service, Committee on Governmental Affairs, U.S. Senate, Washington, D.C., November 2, 1989.

The United States does not have, either in the public or private sector, satisfactory ways for helping people anticipate and pay for the financially devastating costs of long-term care. Thus, it is appropriate for the federal government to offer private long-term care insurance to its employees, as it does health and life insurance. While private long-term care insurance is not a panacea, it can and should play a much larger role in financing care than it does now. The federal government should be a model for other employers who are interested in offering this benefit.

Group long-term care insurance has many advantages over policies sold on an individual basis. Because administrative and marketing costs are much lower for employer-sponsored group products, a purchaser can obtain more benefits for the dollar. In addition, since group policies are generally sold to non-elderly, there is more time for reserves to be built up, thus lowering premiums and improving affordability. Selling to a low-risk group of non-elderly also reduces insurers' fear of adverse selection--having their products disproportionately purchased by persons who know they will need long-term care. Reducing adverse selection makes policies less expensive and a better buy.

The employer-based group long-term care market is also very new and untested. According to Health Insurance Association of America (HIAA), only 11 of the 109 insurance companies that sold long-term care insurance products in 1989 offered an employer-sponsored group plan. Moreover, of the 1.3 million policies that have been sold, only 3 percent were employer-sponsored.

The extremely low market penetration reflects several factors. For insurers, the very long time horizon between initial purchase and use of nursing home and home care that goes with selling to the non-elderly involves great uncertainty and risk. A policy bought at age 50 probably will not be used until age 85, 35 years into the future. Unforeseen changes in disability or mortality rates, inflation in service costs or utilization patterns, or the rate of return on financial reserves can dramatically change a profitable insurance policy into an unprofitable one.

Another barrier to the growth of employer-sponsored long-term care insurance has been low consumer demand. Lack of awareness of the need for this type of coverage has been a recurrent theme in market research. As a result, few employees and unions have bargained for long-term care insurance. This, however, may be changing. For example, an Equicor survey of 1,000 employees in large companies found that 5 percent were very interested and 32 percent were somewhat interested in trading some current fringe benefits for new nursing home benefits.

Finally, while employers' interest in offering long-term care insurance is growing, their interest in helping to pay for the insurance is not. In virtually all sales of employer-sponsored long-term care insurance, the employee pays all of the costs. Employers see offering long-term care benefits as financially risky and sure to grow as the baby boom grows. From their perspective, today's employee-pay-all benefit may well end up on the bargaining table with an employer contribution as part of a renegotiated contract. Moreover, employers already face an unfunded liability for retiree health benefits that is between $200 and $300 billion. Thus, employers are not looking for another elderly benefit to which they will contribute.

Despite the supply and demand barriers affecting growth of group long-term care insurance, a program like that proposed in S.38 would set a positive example for other employers. In this regard, the option in S.38 to trade-in life insurance for long-term care insurance is an innovative and intriguing concept. Offering long-term care insurance to federal employees will also provide valuable information for designing and administering public long-term care insurance initiatives. While we support the goals of S.38, there are several ways the bill should be improved:

1. Broaden the Eligible Population.

Except for an initial start-up period, enrollment under S.38 is limited to a one-time opportunity for active employees who turn age 50. This is far, far too restrictive. No other existing employer-based plan draws its eligible pool so narrowly. Since use of long-term care services is extremely low until age 85, it could be 35 years or longer before there is any significant claims experience or before the long-term care needs of federal employees are met to any significant extent. All active employees (at least age 50 or older) and retirees (with medical underwriting) should have an annual opportunity to enroll in the long-term care insurance plan. While this will increase the risk of adverse selection, the problem should not be insurmountable.

2. Improve Inflation Protection.

The long period of time between the initial purchase of insurance (50 years old) and the age at which benefits are needed (e.g., 85 years old) means that inflation will dramatically erode the indemnity level of benefits initially purchased under a fixed benefit plan. S.38 recognizes this problem by indexing benefits levels (and premiums) by the General Schedule. This almost certainly will not be adequate.

According to the Health Care Financing Administration, nursing home charges have exceeded the Consumer Price Index (CPI) by an average of 3 percentage points over the last 10 years (closer to 3.5 percentage points over the last 5 years). In recent years, General Schedule increases have not even kept up with CPI. Assuming a 6.0 percent per year nursing home and home care inflation rate, a policy that pays $50 a day in a nursing home when purchased at age 50 needs to pay roughly $380 a day at age 85 to have comparable purchasing power. If the General Schedule increases at 4.0 percent per year, the indemnity payment level would only reach about $200 by age 85, about half of a fully indexed policy.

Adjusting benefits for inflation adds dramatically to the premiums. For example, a new group long-term care insurance policy offered by the Travelers that indexes benefits and premiums by the Consumer Price Index (CPI) costs 75 percent more at age 50 than a policy that has no inflation adjustment. Nonetheless, an adequate inflation adjustment is by far the most important feature of long-term care insurance policies sold to working-age persons. Policies that do not adequately account for inflation are highly misleading to consumers and make promises about financial protection which they cannot keep.

3. Address Lapse Rate Problem by Providing Reduced Benefits.

It is not currently known whether large numbers of purchasers of long-term care insurance will drop their policies substantially before they are likely to use benefits. If they do, this creates an equity problem because long-term care insurance premiums are designed to be relatively level, building up reserves in younger years to be used as the insured ages. Thus, from an actuarial perspective, a person who buys a policy at age 50 and drops it at age 65 has paid in more than necessary to cover their expected long-term care use during that 15 year period. It is, therefore, desirable to provide a pro-rated share of the initially purchased policy benefit to persons who have paid in for some period of time and then decide to terminate the policy. For example, an individual who pays premiums for 15 years might be entitled to a $25 a day nursing home benefit rather than a $50 a day benefit. Because of possible complications with the tax code, reduced benefits are preferable to premium refunds. Of course, any reduced benefit must be set at some reasonable floor to avoid the administrative burden of providing a meaninglessly small benefit.

4. Improve Portability and Flexibility.

Although S.38 targets federal employees with low turnover rates, some federal employees over age 50 do leave before retirement. Under the current bill, these persons would not be able to continue their policy, even by paying the full premium. This is at odds with most existing employer-sponsored plans which allow conversion to an individual policy. We recommend that a similar conversion option be available to federal employees.

Relatedly, the "irrevocable" conversion of life insurance to long-term care insurance required by S.38 may serve as a deterrent to participation. It is also unclear in the legislation whether employees may switch among insurance plans. Many federal employees may be reluctant to make this kind of permanent commitment to one insurance policy. Although the calculations may be difficult, some way needs to be found to let people return to their life insurance if they so desire.

5. Mount a Major Educational Campaign.

Our limited experience in this area strongly suggests that long-term care insurance will not sell itself. It will require a major effort by the Office of Personnel Management to educate federal employees to their risks of using nursing home and home care and the benefits and costs of long-term care insurance. This initiative need not necessarily be written into the legislation, but it needs to happen. Without this commitment to educate, the effort to provide long-term care insurance to a substantial number of federal employees will almost certainly fail.

6. Make Additional Federal Contributions Toward the Cost of the Premiums.

In order to make long-term care insurance more affordable, the federal government should help pay for it, as it does health insurance. This approach is, after all, critical to the general affordability of acute care insurance. Many fewer people would have health insurance if they had to pay for it all themselves. The innovative conversion of life insurance proposed in S.38 is a step in the right direction, but will probably not be enough to establish widespread market penetration.

In summary, S.38 is an innovative proposal to provide private long-term care insurance to federal employees that deserves to be supported. As employers struggle with offering a new retiree benefit in a period of retrenchment, S.38 will generate a large group of onlookers ranging from organized labor to corporate benefits administrators to private insurers to advocates of public long-term care insurance. S.38 could be improved by: 1. broadening the eligible population; 2. strengthening inflation protection; 3. addressing lapse rate problems by providing reduced benefits; 4. improving portability and flexibility; 5. mounting a major educational campaign; and 6, providing additional federal contributions to make policies more affordable.

QUESTIONS FOR THE RECORD SUBMITTED
BY SENATOR DAVID PRYOR FOR JOSHUA WIENER

1. You talk about the bill being too restrictive as to age. What would your suggestive range of eligibility with respect to age be?

All active and retired employees between the ages of 40 and 79 should be able to purchase policies each year. In order to be acceptable to the insurance industry, medical underwriting may be necessary. If so, I would hope that it could be restricted to the retiree population.

2. You say that S. 38 is inadequate with respect to the inflation adjustment as currently conceived. Could you outline what you feel would be a better approach?

Nobody knows for certain what nursing home inflation will be in the future. Most experts, however, think that it will exceed the CPI by at least one or two percentage points. Therefore, assuming that CPI is 4 percent per year, benefits should increase somewhere between 5 and 6 percent per year. Premiums should rise at the rate of increase of about 4 percent. These figures assume that the combination of increases in the General Schedule and within grade increases will result in an aggregate increase in salary for federal employees of about 4 percent a year.

3. When you talk about the "irrevocable" conversion serving as a deterrent, are you suggesting a flexible cafeteria plan would be a better approach?

It is not entirely the same issue. My only point is that some employees may be reluctant to permanently switch out of a known product like life insurance into a new and unknown product like long-term care insurance. At least initially, it would be helpful to recognize that reluctance by allowing some switching back and forth.

4. Do you think it is necessary for the areas you address to be built into the legislation or do you feel that these should all be left up to OPM?

I do not have strong views on this matter. However, OPM must clearly understand what the Committee views as acceptable standards.

5. Several witnesses point out that group marketing and competition should enable the Federal Government to achieve much higher loss ratios. What kind of loss ratio should OPM look for in the negotiating and selection process? What other method could the

government pursue to get the best value for good long-term care coverage?

To prevent sale of insurance policies not worth buying because of their limited benefits, regulators have developed a general measure, the loss ratio, to evaluate an insurance policy's economic value. The loss ratio is the proportion of total premiums paid out in benefits to consumers during the year. Typically, high loss ratios are thought to be a sign of a good product.

Unfortunately, interpretation of simple loss ratios applied to long-term care insurance is not straightforward and may be misleading. Computed loss ratios may be very low in the early years of long-term care policies, since premiums are usually collected several years in advance of expected payments. Thus, initial payouts to the consumer may be quite low, whereas the long-range liabilities of the insurer may be substantial. The buildup of reserves for the younger age population is a crucial element in lowering premium costs, but the application of annual minimum loss ratios, does not take that into account.

With those caveats in mind, I think that the long-run loss ratio for a group insurance plan ought to be in the area of 80 percent. Marketing and administrative costs are much lower in group policies than for individual policies. OPM should insist on detailed information on the assumptions with which rates are calculated and should require insurers to submit detailed financial information about their actual experience.

6. If you were asked to design a model long-term care program for federal employees, what elements would you include in your proposal?

I think the most important elements are: 1. coverage of at least three years of nursing home and home care; 2. home care that does not require prior hospitalization or prior nursing home stays and that clearly covers custodial care by nonskilled personnel; 3. benefit payment levels that increase at somewhere between 5 and 6 percent a year; 4. no medical underwriting for active employees; 5. cash value for persons who terminate policies; 6. portability for employees who leave the Federal Government; and, 7. premiums that increase at the rate of expected increases in income during the working years and increase at no more than the CPI or are flat during the retirement years.

7. How does a consumer distinguish between a good and bad long-term care policy?

A good policy is one that meets the criteria described in Question 6 above.

QUESTIONS TO DR. JOSHUA WIENER FROM SENATOR PETE WILSON

1. The United Seniors Health Cooperative (USHC) study of LTC policies, as well as the Consumer Report analyses, conclude that policies are limited in the amount of financial protection they offer. Such provisions as prior hospitalization requirements, pre-existing conditions exclusions, age restrictions and limits on levels of nursing home care covered have been identified as problematic restrictions. What minimum protections and standards would you suggest OPM require from all insurance companies who bid on OPM's RFP in order to ensure Federal employees adequate yet affordable insurance.

Any policy offered by the Federal Government should meet the most current standards of the National Association of Insurance Commissioners (NAIC). These preclude prior hospitalization requirements and limits on levels of nursing home care covered. In addition, the Federal Government has a responsibility to offer policies that far exceed the NAIC minimum standards. The policies should: 1. cover at least three years of nursing home and home care; 2. covers home care that does does not require prior hospitalization or prior nursing home stays and that clearly cover custodial care by nonskilled personnel; 3. provide benefit payment levels that increase at between 5 and 6 percent per year; 4. include no medical underwriting for active employees and limited underwriting for retirees; 5. cash value for persons who terminate policies; 6. allow portability for employees who leave the Federal Government; and, 7. establishes premiums that increase at the rate of expected increases in income during the working years and increase at no more than the CPI or are flat during the retirement years.

2. In light of fiscal realities, such as the federal budget deficit and the fiscal problems expected for Medicare over the next 20 to 40 years, and the unlikelihood of a comprehensive public insurance approach to LTC financing in the United States, what viable near-term options exist for beginning to tackle the problem of providing Americans access to long-term care? Do you consider S.38 an important step toward improving access to LTC coverage?

What policy options are "viable" will partly depend on the leadership provided by the President and the Congress on this issue. There are several incremental steps that can and should be taken to improve the long-term care financing system.

To encourage private insurance, I propose: 1. clarifying the tax status of long-term care insurance by allowing for the tax-free build up of reserves, establishing that benefits received under long-term care insurance plans are not income, and allowing employers to treat long-term care insurance as a "health insurance" plan; 2. providing the elderly and others with education about their risks of needing long-term care and the costs and benefits of private insurance; 3. passage of a strengthened S.38; and, 4. strengthening regulation of private insurance. I do not favor tax credits or deductions for purchase of private insurance.

For the public sector, I propose passage of an expanded long-term care insurance benefit under Medicare covering one year of nursing home care and a relatively generous home care program. I also recommend raising the personal needs allowance and the level of protected assets for Medicaid nursing home patients. I would also expand Medicaid coverage of home care.

3. Clearly, many of the nation's senior citizens have sufficient income and assets to pay for nursing home or home-based care. Given that, what is the policy rationale or social purpose of mandating public coverage to all senior citizens, including those able to pay for care?

The rationale for public coverage is basically the same as for Medicare and Social Security. First, based on my research, I estimate that, even thirty years from now, two-thirds of the elderly population will not have any private insurance. Currently, only 3 percent of the elderly have any insurance. In 1965 Medicare was enacted because it was considered intolerable that only 50 percent of the population had acute care insurance. Thus, most elderly will remain uninsured.

Second, reliance on means-tested welfare programs is undesirable because public charity always carries some stigma, and efforts to reduce taxpayer costs are likely to perpetuate a two-class system with inferior care and status for Medicaid patients. Moreover, it is an odd welfare program whose eligibility requirements are met by a majority of the people using services. In other U.S. welfare programs, such as Aid to Families with Dependent Children and the Supplemental Security Income program, only a small minority of the population is expected to be financially eligible.

Third, public insurance will provide for universal coverage and allows a broad basis on which to finance the costs. Like Medicare and Social Security, it also allows benefits to be financed on a moderately progressive basis. Private insurance is the most regressive of all financing mechanisms.

4. In previous appearances before Congress, you consistently have cautioned that Congress cannot rely on private sector financing to "do the whole job" of supplying LTC and reducing Medicaid expenditures because private insurance may remain unavailable or unaffordable for some Americans. Do you agree that S.38 will facilitate the larger goal of ensuring access to LTC insurance to Americans who want it?

For the reasons specified in my prepared testimony, I am an enthusiastic supporter of a strengthened S.38.

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TESTIMONY OF JAMES FIRMAN, PRESIDENT

UNITED SENIORS HEALTH COOPERATIVE

S. 38

FEDERAL EMPLOYEES LONG-TERM CARE INSURANCE ACT

November 2, 1989

Good morning Senator Pryor and members of the Committee on Governmental Affairs. My names is James Firman. I am President of United Seniors Health Cooperative, a non-profit organization with 12,000 older members in the greater Washington area. Our mission is to enable older persons to remain healthy, independent and financially secure. We serve our members by providing consumer information and individual counseling to help seniors through the maze of health care and health insurance options. We do not sell insurance and have no ties with any insurance companies.

Because many of our members are or were formerly federal employees, we are especially pleased to be able to provide testimony today. United Seniors firmly believes that we cannot adequately represent the views of our members without first consulting with them. Consequently, we have discussed Senate Bill 38 at recent meetings of both our Alexandria and Montgomery County Regional Councils. The testimony I am about to present is a synthesis of the views of both our members and our very experienced professional staff.

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One of our organization's speciality areas is counseling elders on long-term care insurance. This is clearly one of the area of great need and concern for many of our members. Although only 5% of the senior population is in a nursing home at any one time, the chances of entering a nursing home increases with age. Men over the age of 65 have a 30% chance of entering a nursing home, while women have a 54% chance. Nationally, the average costs of one year of custodial care for a private pay patient is $30,000.

Facing these daunting odds, it is no wonder that millions of Americans are very concerned about protecting themselves against the risk and potentially catastrophic costs of long-term care. The question at hand today is how and to what extent can the federal government, as an employer, make a constructive contribution to the needs of its employees and to the overall development of national solutions to our country's long term care needs.

At the request of the Committee, I will provide our views on three major questions implicit in Senate Bill 38:

- What potential does S.38 have to contribute to the availability of good private long term care insurance for federal employees and to serve as a useful model for the broader population?
- To what extent is the conversion of life insurance benefits to long term care coverage a feasible and desirable option?
- How can S.38 be improved?

When considering these questions, it is important to note that the private market for long-term care insurance is still in its infancy and, so far, has been fraught with problems that are difficult to ignore. For example, in 1988 United Seniors Health Cooperative and the University of North Carolina studied 77 policies being sold in the greater Washington area. We concluded that, because of restrictive clauses and waiting periods, most nursing home residents would not have qualified for benefits if they had bought the policies while still healthy and living in the community. We also found that the home care benefits in most of these plans were so riddled with exclusions and limitations that, for most older persons, they would fall far short of meeting the actual need for care. A copy of the executive summary of this study is attached to this testimony.

Since our study was made public, some progress and improvements have been made. The National Association of Insurance Commissioners (NAIC) passed new model legislation banning the sale of long term care insurance plans with some of the restrictions most harmful to consumers. The Model Act now prohibits the sale of plans requiring either prior hospitalization or prior skilled-level care before a person would qualify for intermediate or custodial nursing home care. Although this is a positive step, so far only a handful of states have adopted the new model act. We expect the number to increase to at least 15 or 20 within the next year, but the bottom line is that, in many states, inadequate policies are still being sold to consumers.

To their credit, many of the leading insurance companies have seen the handwriting on the wall and are no longer selling plans that require either prior hospitalization or prior skilled level care. Unfortunately, these better policies also cost more.

Another recent development has been the growing number of so-called "group" long term care insurance products. In fact, these plans have little in common with what most people usually consider group insurance plans. Virtually every group plan being sold through corporations and associations is in fact an individual policy that is merely being marketed with the endorsement of a sponsoring organization. The insurance copanies still have underwriting criteria and individuals, not the company or association, decide independently whether or not to purchase the insurance.

Given this general pattern of development, what contribution can OPM and S. 38 make to the needs of federal employees and to the nation? Clearly, federal employees are a desirable target group for any company marketing long term care insurance. Whatever group rates and benefits can be negotiated would probably be as good or better than individuals would be able to obtain on their own. To this extent, a program for federal employees would help to demonstrate the potential and limits of private products marketed to employee groups. If the OPM plans would not permit underwriting (i.e. any federal employee would qualify for coverage, regardless of health status) then this bill would be fostering a more innovative product: the first true group long term care insurance product.

A second possible contribution from an OPM program for federal employees would be to demonstrate the potential of a carefully regulated and limited private market. Currently it is virtually impossible for most individuals to make informed choices and comparisons among competing plans which vary dramatically in features, costs, coverage, marketing literature and in the financial strength of the company offering the product. By narrowing the choices for consumers to a limited number of (presumably) relatively good plans, OPM might be demonstrating a model that could be expanded to include all Americans. This could be very significant because, in our view, unless we can find ways for consumers to make informed choices from among a limited number of good options, we will never have a private market for long term care insurance that successfully meets public policy concerns.

Although we have no major objections, we are less sanguine about the provisions of S.38 to allow conversion of life insurance benefits to pay for long term care coverage. Based on our extensive work counseling seniors on these types of questions, we conclude that, in fact, this conversion option will not appeal to very many people, especially if they have to make their choice sometime when they are in their fifties. Most people in this age group still have spouses and children and therefore they have a need for life insurance in case they die. Although this option may be attractive to a single person without heirs, by and large we do not expect a great number of people will choose to pay for long term care insurance in this way.

Another concern we have about the life insurance conversion feature is the uncertain tax consequences of this option. As far as we understand, the IRS has not yet ruled whether or not long term care insurance qualifies as a tax-exempt benefit. This is a key question that should be resolved one way or another prior to implementation of a benefits conversion option.

United Seniors also has three specific recommendations on how S.38 can be improved without adding substantially to its costs.

First of all, we are convinced that S. 38 could be vastly improved by including federal retirees in this optional program. After all, retirees are the ones who most keenly feel the anxiety of not being equipped to face the long-term care dilemma. They should have the opportunity to participate in a more affordable and comprehensive group long-term care insurance plan. It seems to us that when OPM sends out their Request for Proposals to insurance carriers on the long-term care packages, it would be a relatively simple and inexpensive process to request the companies to also include the development of a separate number of high quality plans from which retirees could choose. If the intention is to not allow underwriting for federal employees, a separate set of bids could be obtained for retiree coverage in which underwriting might still be necessary. Including federal retirees in this program will help address the needs of current retirees, result in a larger insurance pool and substantially increase the demonstration value of the entire effort.

Secondly, we believe it is absolutely essential to the success of this program that OPM be given a specific responsibility to provide (or arrange for the provision of) unbiased counseling and educational literature to all persons considering these purchase long term care. We know from our own experiences working with thousands of individuals that health insurance can be a complex and firghtening maze for many people. Much of the work of United Seniors is analyzing the insurance needs of our members and answering their urgent questions when they become mired in the language of their policies. Meeting this need takes specially trained persons and a great deal of time. Thus, the information provided the potential participants in the Federal program must be clear, concise and unbiased. Consumers will need to make enlightened decisions concerning their investments, tax situations, life goals, family history, health status and future. Long term care insurance is clearly not appropriate for everyone and OPM has to make sure that people are given all of the information and help they need to make informed choices.

Our third recommendation for improving S.38 is to include provisions for direct participation by federal employees and retirees in the design and implementation of the benefits and educational programs. One way to do this would be to create a Beneficiaries Advisory Committee which would have some direct representation in the RFP/negotiating process.

When discussing S.38, our members also instructed me to make one final point on their behalf. Our members are increasingly discouraged with the fragmented and piece-meal approach to federal health legislation. Although S. 38 may be of modest benefit to federal employees (and perhaps retirees as well), virtually all of the seniors present at our meetings expressed the sentiment that Congress needs to take a more comprehensive approach to the nation's long term care problems.

In summary, U.S.H.C. believes that S.38, as it now stands, would be a modest step forward in helping current federal employees to purchase good quality and affordable long term care insurance. Depending on how the program unfolds, it may also serve as a useful model for other group programs. However, we urge that S.38 be improved by expanding its scope to include retired federal employees, by ensuring that consumers receive necessary consumer education and counseling services, and by mandating more beneficiary participation in the design and implementation of the program. We also urge Congress to get on with the more important business of developing a national strategy to ensure that all Americans can get the long term care they need.

Thank you.

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Responses of James Firman to Questions from Senator Pryor

Question #1: Because your organization provides counseling to senior citizens on health care consumer issues, what type of counseling program does the federal government need to develop in order to help employees decide whether they should elect the conversion option, and what policy would be best for them?

Response: To ensure that most consumers are able to make informed choices about long term care insurance, federal employees and retirees need information and help with the following:

- reviewing their personal risks, needs, finances and long-term objectives.
- understanding their options for paying for long term care and for protecting against the risks institutionalization.
- help in determining: 1) Do I need a long term care policy? and 2) If yes, what kind and how much coverage?
- information about the weaknesses as well of strengths of each competing plan.
- help in understanding the conversion option and deciding if it is the best choice.

Consumer information and counseling should be available on both a group and individual basis and should be presented in an unbiased manner by knowledgeable persons with no vested interest in the decisions made by individuals.

Question #2: If you were asked to design a model long-term care program for federal employees, what elements would you include in your proposal?

Response: In my view, there are fundamentally two ways to go in this issue.

One way is to prescribe minimum benefits, options, features and to ignore fundamental questions about control of reserves and future premium increases. If this approach is used, OPM should make sure the plans are truly group insurance by mandating adherence to NAIC minimum standards, requiring open enrollment, and ensuring some control over long-term premium increases.

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Alternatively, the government should seek insurance companies to pool and manage risks for a negotiated percentage (10%, for example) of the total asset pool. I believe that this would be much better for consumers in the long term.

Question #3: How does a consumer distinguish between a good and bad long-term care policy?

Response: Currently it is not easy for consumers to distinguish between good and bad long term care policies. Policies are difficult to read, understand and compare with others. It is particularly difficult for consumers to see the weaknesses of plans and to understand the long-term risks.

Consumers need good, unbiased information about how each available plan compares with each other and with both NAIC minimum standards and standards of excellence (being developed by USHC) for private long term care insurance policies.

Question #4: Do you think a new long-term care benefit for federal employees should be attached to the current Federal Employees Health Benefits Program, F.E.G.L.I., or be included in a proposed flexible benefits programs for federal employees?

Response: A good argument can be made for each of these approaches. I would prefer including long term care insurance in an independent flexible benefit program because it would probably allow for the most leeway in program development and design.

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Responses of James Firman to Questions from Senator Wilson

Question #1: The United Senior Health Cooperative (USHC) study of LTC policies, as well as the Consumer Report analyses, conclude that policies are limited in the amount of financial protection they offer. Such provisions as prior hospitalization requirements, pre-existing conditions exclusions, age restrictions and limits on levels of nursing home care covered have been identified as problematic restrictions.

Response: OPM should require all of the following:

1. Adherence to NAIC minimum standards

2. Open enrollment, i.e no underwriting (at least for current employees, if not for retirees)

3. Pre-negotiated, minimum loss ratios of 90% or some FEHB control over premium increases.

Question #2: In light of fiscal realities, such as the federal budget deficit and the fiscal problems expected for Medicare over the next 20 to 40 years, and the unlikelihood of a comprehensive public insurance approach to LTC financing in the United States, what viable near-term options exits for beginning to tackle the problem of providing Americans access to long-term care? Do you consider S.38 an important step toward improving access to LTC coverage?

Response: S.38, as written, has the potential to be of modest help to federal employees and retirees by enabling them to purchase somewhat better coverage than they might otherwise be able to obtain. Unfortunately, it will only directly effect a small segment of the entire population. S. 38 may be helpful in encouraging the development of more affordable and practical group plans, but it will not be a major step toward addressing the nation's needs as a whole.

S.38 could be a much more important step toward improving access to long term care coverage if the OPM program was the first step in extending similar coverage and benefits to the general public. All consumers should be able to choose from a set of pre-selected group plans which follow the requirements identified in my earlier response.

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By the way, I do not accept the premise that there is no hope for a universal long term care program. The Pepper Commission is likely to recommend some comprehensive public insurance approach and it should be given full consideration. In my response to the question #3, I also identify another feasible and relatively inexpensive public approach.

Question #3: Clearly, many of the nation's senior citizens have sufficient income and assets to pay for nursing home or home-based care. Given that, what is the policy rationale or social purpose of mandating public coverage to all seniors citizens, including those able to pay for care?

Response: The fundamental question is whether or not there is a compelling public interest in ensuring that all Americans have access to the long term care they need or whether the government should limit its role to helping the relatively small minority of Americans who are ready, willing and able to purchase private insurance.

I believe that the public interests are not served by merely encouraging people to buy private insurance for the following reasons:

* In a purely voluntary approach, most people will not buy insurance either because they choose not to, they can't afford it, or they don't meet the underwriting criteria necessary to qualify for coverage. If we adopt a purely voluntary approach, we can expect that no more than 15% of the current generation of seniors and 25% of the next generation will actually purchase insurance. Most of these purchasers will be middle and upper-middle class people who least need help, while leaving the vast majority of Americans uncovered.

* A purely private program will not protect the American taxpayers against the staggering public costs of people who enter nursing homes without long term care insurance or who are institutionalized prematurely because they can't get sufficient help at home.

* A private market for long term care insurance is almost certain to be plagued by all of the same problems that pervade the Medigap market: a mixed bag of insurance options, a difficult and confusing environment for consumers, and many people making poor choices.

A universal program, one in which everybody contributes and everybody benefits, will better serve the interests of both individuals and the American public. Consumers will be better protected, they will get a better value for the dollars, and all of the economic advantages of a social insurance approach can be realized.

Two important points should be made about a universal program: it can be privately administered and there are ways in which in can be relatively inexpensive to the taxpayer.

Automobile liability insurance is a good example of a form of publicly-mandated, privately provided insurance. There are many good reasons for considering this approach for long term care insurance.

A universal program need not be excessively expensive either, depending on the benefits that are provided and how they are paid for. For example, I believe the most compelling public interest lies in helping people to stay out of nursing homes rather than in providing them with long term asset protection. A program that ensures all disable persons can get help to stay independent could cost less than $10 billion annually. This program would guarantee access to information and help with decision-making as well as income supplements for people with 2 or more ADL-deficiencies.

There is less of a compelling public interest in ensuring that middle class people are able to pass their assets on to their heirs. If there were a universal, public home care program, the government could then, in good conscience, encourage people to buy asset protection for long nursing home stays from private insurers.

Question #4: The United Seniors Health Cooperative and Consumers Union each released analyses last year that were critical of LTC insurance products on the market. Did your studies reflect an analysis of individual policies only or were group products considered? How do group products generally compare to the comment in your respective studies?

Response: As of November 1989, there are no genuine group long term care insurance products available anywhere in the United States. Insurance plans that are being marketed as "group insurance" are in fact individual plans being sold through associations or companies. This is an important distinction, because these plans lack the key features of group insurance including: 1) open enrollment (no underwriting) for members of the group; and 2) group leverage over long-term rates and benefits through either control of the reserves, control of premium increases, or pre-negotiated loss ratios.

Over the past two months, I have examine about 15 of the major individual plans being marketed through associations. On the whole, these plans are marginally better than the plans being sold to the general public, but not a great deal better. None of the newer association plans require prior hospitalization or prior skilled level care - a improvement mirrored by the individual plans. Plans marketed through associations and employers are also usually being offered by reputable insurance companies. Overall, these plans are perhaps 5% to 10% better in terms of overall benefits and costs to consumers.

Question #5: Last year's United Seniors Health Cooperative study and the May, 1988 Consumer Report analysis of long-term care policies found long-term insurance market is an evolving one. The newest LTC products have been responsive to criticisms of early LTC policies, including features such as no requirement for prior hospitalization and inflations protections. Isn't the real issue here one of consumer is full informed of policy provisions and whether the premium is calculated consistent with those provisions?

Response: If the issue is how to help the small minority (perhaps 15%) of Americans who are currently ready, willing and able to purchase private long term care insurance, then the answer is better consumer awareness, information, counseling and protection.

If the issue is how to ensure that all Americans are protected and that the public interest in helping people to remain independent is served, then we clearly need to do much more. I believe a universal, public program for home care and a private program of asset protection for nursing home care is the best way to meet the overall public interest within the limits of current budget constraints.

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S.38 WILSON

PRIVATE LONG-TERM CARE FOR FEDERAL EMPLOYEES

TESTIMONY BY

DENNIS L. DEWITT
MANAGING CONSULTANT
A. FOSTER HIGGINS & CO., INC.

PRESENTED TO:

SENATE COMMITTEE ON GOVERNMENT AFFAIRS
SUBCOMMITTEE ON FEDERAL SERVICES,
POST OFFICES AND CIVIL SERVICES

November 2, 1989
Washington, D.C.

Good morning Mr. Chairman and members of the Committee. My name is Dennis L. DeWitt. I am a Managing Consultant with the firm of A. Foster Higgins & Co., working on its Retire Health Care National Practice Staff. I formerly served as Executive Director of the Congressionally mandated Task Force on Long-Term Health Care Policies which delivered its report to the Congress and the Secretary of the Department of Health and Human Services in September of 1987.

The Task Force reported that there is a great potential for the development of private financing of long-term health care and suggested that long-term care insurance could play a large part in that private sector activity. The Task Force acknowledged that private financing was not the total answer to addressing long-term care needs, since there would be those who simply could not provide their own financing. The government has a responsibility to step forward and address the needs of those individuals. Clearly, the Medicaid program, which provides about 43% of the nursing home care in America, could use some improvement. That is, however, no reason to develop a public program which would provide benefits to many of us who, with a little planning, are capable of providing for our own needs. Since leaving government and joining the private sector, I have only grown more strongly to believe this is the case.

There are those who philosophically believe that the government is obligated to provide full health care to all its citizens and believe that a government financed health care program will be superior to a private system. I am not among that group. I believe that the private and plural nature of our health care delivery system is its strength and the reason that we have as high quality a system as we have. Again, I would be the first to acknowledge that it is not perfect. But lack of perfection is no reason to throw out the good.

While I am not here to represent the Task Force, I think it is appropriate to share with you its findings and recommendations. The Task Force discussed several basic principles which provide a useful framework in which to consider this issue:

First, there is no silver bullet to solve this problem. Its solution will require multiple strategies and demand the best in innovation and resources from all sectors - public and private. Each has an important contribution to offer.

Second, financing alone will not satisfy the long-term care needs of the nation. The complexity and magnitude of the problem will require new and expanded delivery systems encompassing both medical and social services, effective methods to contain costs, and research breakthroughs to reduce disability and improve the quality of life.

Third, public policies aimed at addressing these concerns should do little to disrupt or discourage the extensive and compassionate network of informal caregiving currently provided by family members and friends. Our solutions ought to support and encourage such informal care.

Fourth, public policy should promote individual responsibility so that those able to pay for services or who can afford to purchase adequate protection are encouraged to do so.

The Task Force adopted 41 recommendations. Taken together, they provide practical directions for strengthening long-term care financing through private insurance. They vary in difficulty of implementation, effect on the issues, cost effectiveness, political acceptability and budget impact. The recommendations covered seven areas and can be summarized as follows:

1. Inform Consumers that Medicare, Medigap, and acute health care insurance do not cover long-term care;

2. Encourage States to adopt the National Association of Insurance Commissioners' Long-Term Care Model Act (this has been effectively done in 37 states);

3. Promote the availability of long-term care insurance through employment (by January of 1990 there will be at least 35 such programs in place);

4. Develop long-term care insurance financing through the voluntary use of vested pension funds;

5. Use Federal and State tax codes to encourage the purchase of long-term care insurance (a portion of this has been addressed by treating long-term care insurance reserves like these of life insurance);

6. Encourage new approaches to determine eligibility for long-term care insurance benefits;

7. Encourage greater cooperation in the collection and sharing of long-term care data.

Several of these issues have been addressed, or are in the process of being addressed. For example, the Society of Actuaries has begun a project which would collect and share long-term care data so that those interested in developing and offering financing mechanisms would better be able to forecast utilization and duration of services. The Department of Health and Human Services has added information on long-term care to the 1989 Medicare Handbook. And the insurance industry has offered new approaches to eligibility determination to make the products more valuable. Even so, much still needs to be done if this private financing mechanism is to be as effective as it has the potential to be.

Others have yet to be addressed, especially those dealing with the tax code. Those tax issues are most significant, as they are the issues that need to be addressed so that employers can more easily and confidently begin to help their employees address this issue through employment based group programs.

I would like to impress upon you the important role that long-term care insurance can play in addressing this important concern. The high cost of long-term care and the demographics of an aging population make pay-as-you-go financing far less desirable than prefunding for long-term care needs. Furthermore, few individuals have the capacity to finance an extended nursing home stay or other long term-care services entirely out of their assets and income. Many people, however, may be able to provide for those costs through the purchase of long-term care insurance, particularly if adequate reserves are built up early during their working careers.

Many of you may be aware of the Brookings Institution's recent study on long-term care financing. It suggests that only 25% to 45% of the population over 65 could afford long-term care insurance. This does reflect assumptions on a model and the results that followed. They assumed that those who would purchase long-term care insurance would do so at age 67. That assumption had validity four or five years ago. The environment has changed and has great potential to change even more - if the public policy does not inhibit this change.

Using the same model that Brookings used in its report, but changing the assumptions to suggest that people could buy long-term care insurance beginning at age 30, spending not more than 1% of income, the model suggests that 66% of the population could afford long-term care insurance. In addition, it suggests that there is a likely savings in the Medicaid program of approximately 12%.

The State of Alaska offered its retirees the first employer sponsored, group long-term care insurance in America in the spring of 1987. Since then approximately 35 other major employers have sponsored long-term care insurance programs for their employees. All but one of these programs require the employee to pay the full premium. The results have been remarkable, especially considering who is paying the premium. In Alaska the enrollment rate is about 30% with an average enrollment age of 60 (Note that the Alaska program is for retirees and spouses only). While the enrollment has been below 15% for the other programs, the enrollment age has averaged around 40 years old.

The success of these employer based programs and the average age of enrollment leads one to be comfortable in the belief that the modeling assumptions which suggest larger market penetration and younger purchase age have great potential for accuracy. Further, this success demonstrated two important facts. First, employers are interested in assisting employees with their retirement needs. Second, given a reasonable opportunity, people have shown a willingness to address their own long-term care needs.

In the individual market we are also seeing a tremendous growth in policies. In 1986 estimates indicated said there were about 200,000 policies in force. In May of 1987 the Task Force did a survey and found over 420,000 in force. Today, estimates suggest 1.3 million policies in place with 39,000 of these in employer based programs. It is true that the number is small compared to the universe of people over age 65, but this is a new concept which has the potential to continue to grow geometrically if it has public policy support.

We also hear about the poor quality of long-term care insurance policies. There are some I would not recommend, however, there are many policies which are very reasonable. As would be expected in any developing market, the policies are evolving. The first generation of policies were tentative with severe limitations. The market place has already been forcing change. For example, policies now include features such as; inflation adjusters, case management, no requirements for prior institutionalization, a variety of alternative home and community based services, eligibility criteria predicated on limitations in activities of daily living, and service related reimbursement. There seem to be more market driven changes every day. The first generation "standard policy" upon which research was done two years ago is rapidly being replaced by products that are more responsive to consumers desires and needs.

While the growth of private financing is beginning to look promising, there are things that need to be done to encourage the sustained growth of private financing mechanisms. I believe that these items should be addressed and the private sector given the opportunity to deal with a significant portion of the long-term care financing dilemma. A precipitous intervention into this market by the public sector would certainly end any hope of the private sector response fully developing.

A change in the federal tax code to remove the current impediments to the development of ong-term care insurance should be encouraged by the following:

1. Give long-term care insurance the same tax status given to health insurance with regard to the premiums paid and benefits received under individual and group policies;

2. Permit long-term care insurance to be offered in a Section 125 cafeteria plan on the same pretax basis as health insurance.

3. Allow individuals, voluntarily, to make tax free transfers of vested funds in pension plans, IRA's and other retirement programs to purchase long-term care insurance; and

4. Allow more flexible development of life insurance products with long-term care riders or with long-term care integrated into the policy.

The above mentioned tax changes are hardly tax loop holes for the "rich and famous". They simply suggest that the federal tax code should recognize that while long-term care insurance is basically a health benefit, unlike tradition health insurance, its use is in the future, similar to life insurance. These tax code changes are made necessary not so much as incentives but to bring the code into a recognition of the current state of the art in insurance.

These changes will assist employers in offering employer based long-term care insurance by clarifying the tax status of the product. Employers need to know if a long-term care insurance benefit creates an additional tax liability on the employer or employee. Can it be offered in the context of the employer's current benefit package or will it cause extensive redesign problems.

Additional changes in the tax code which will encourage private financing of long-term care include tax credits, perhaps on an income related basis, and establishing individual medical accounts or long-term care savings accounts. These would be more costly to the federal treasury and would tend to favor the upper income tax payer. However, to the extent that these actions stimulate savings and prevent a person spending down to Medicaid eligibility, a clear public good is achieved.

I would caution against the current proposals for the federal government establishing a universal publicly funded long-term care program for several reasons. First, the cost would be high. The one proven fact about federal programs is that they cost much more than predicted. Part of the reason is the difficulty in enforcing user discipline when the user feels that the program costs him nothing.

Second, most proposals have a high probability of serving a large population that can very well provide for itself. There are limited tax funds available and not all of them are earmarked for health care. There is the ever present struggle for limited federal resources not only among health programs but between education, roads, environmental concerns, defense, etc. I believe those limited funds should be targeted towards the truly needy by doing things such as improving the Medicaid program, and by increasing the meager $25.00 monthly "personal needs allowance" most states allow Medicaid nursing home residents.

Finally, the development of a federal program at this time will freeze the long-term care delivery system and financing ideas at their current primitive state. If we look at Medicare, it is still basically the same program that was created in 1964 (this assumes adoption of the Senate version of Catastrophic repeal). It was based on the then popular major medical model of health insurance. The "body politic" can work on the margins of a program but, ordinarily, does not have the capacity to innovate or change an existing program. Thus, in twenty years we would probably be looking at a long-term care program that was built on a model(Medicare and Medicaid) that was twenty years out of date when it was used.

Rather than enacting a public sector program, I would encourage fostering innovation in the employer sector. I would encourage support of the initiative, S.38, by Senator Wilson from California, to allow the federal government as an employer to sponsor a private long-term care insurance program for its employees. I would encourage consideration of the development of private policies which combine life insurance and long-term care insurance. I would look at the proposal to give individuals the ability to use vested pension funds to pay for long-term care insurance. In short, I would give the private sector the ability and encouragement to aggressive address the problem of financing long-term care. If the private sector fails, there will still be time to move in with a public sector response. However, if the public sector moves in with a universal program, the die is cast.

The intent of 5.38 is good. It provides an opportunity to convert life insurance into long-term care coverage after age 50 with 10 or more years in the FEGLI program. It also provides a mechanism for purchasing long-term care coverage without converting life insurance coverage. The short coming is the age 50 requirement. While this may be necessary to make the conversion work, it is in appropriate for a program not tied to conversion. Private sector plans are experiencing an average enrollment age of about 40 years old. It is nice that the "age 50" requirement can be lowered in 5 years. However, there is no real reason to have it in the first place. If actuarial soundness requires that the conversion have minimum age and participation requirements, they ought to be administratively determined, not frozen in statute.

On page 4 lines 20-24 of the bill it specifies that when premiums cease, coverage ceases. This is a weakness which should be re-thought. If a person pays into the plan for 20 years, from age 50 to age 70, why should he walk away with nothing? Most group policies provide a nonforfeiture value, the federal employee's program should not be an exception.

The portability required on page 7 is appropriate and important, because long-term care coverage is a "long-term" issue. It is important that a person be able to continue to have advantage of the premium at the initial entry age for as long as the premium is paid.

A group long-term care insurance program is unlike the group health program. The development of reserves and entry age level premium requires that a person remain with one plan to obtain maximum benefits at minimum cost. The Office of Personnel Management will want to be concerned about the ownership of reserves so that federal employees and retirees are not exposed to tactics which can only be resolved by changing insurers then starting a new program at an older entry age and higher entry premiums.

The inflation adjustment ought to be tied to a responsible measure. Depending upon the actions of Congress to determine inflation adjustments is a risky business. It is sometimes simply inaccurate. At the very least, it inhibits the development of accurate actuarial projections and dependable planning.

I believe that it is important for one of America's largest employers to be a leader in making long-term care insurance available. I believe S.38 offers this vehicle. There is also need that the benefit be available to all interested employees, thus the blanket restriction of age 50 or older should be dropped.

It is important also that the program be successful. To be successful, just as much time should be devoted to the educational process as the program design process.

Because the federal government will be shaping the characteristics of long-term care policies, it is important that the program be flexible and capable of changing as the state of the art improves. This can be accomplished by allowing OPM the maximum discretion in design features and encouraging that the program offer multiple benefit amounts, eliminations periods, duration of coverage, etc.

The federal government can and should lead the path for other employers. After the federal government moves, others will follow the lead. This is a positive step toward the development of a successful long-term care market. It will offer a strong statement that the private sector should move even more actively than it has in the past three years.

Before closing I would like to briefly emphasize two things that will go a long way toward making the long-term care insurance market a reality: Public education and generating consumer confidence in these insurance products. The Task Force found a good deal of misunderstanding regarding government coverage for long-term care under the Medicare program and knowledge about the availability of private financing vehicles. The responsibility to create greater awareness among the public regarding their risk of needing long-term care services and their ability to finance them rests with all parties - the government, employers, insurers, consumer groups, financial counselors, political parties, etc. Legislative consideration of acute catastrophic coverage under Medicare over the past 3 years has done much to inform the public regarding their Medicare benefits.

The Department of Health and Human services should continue to inform every eligible Medicare beneficiary not only what new benefits have been added, but also the that long-term care services are not covered by the Medicare program. Insurers offering Medicare Supplemental policies should also disclose the lack of long-term care coverage in their policies. Likewise, efforts should be made to inform individuals, both young and old, as to the increasing availability of insurance contracts which provide varying levels of long-term care protection.

Mr. Chairman, the opportunity for the private sector to contribute significantly is clearly before us. In dealing with major employers and insurers in the course of my work, I can tell you that there is interest and willingness to face this issue. The response we have seen from middle aged Americans clearly shows that there is a willingness to accept responsibility for the future. Not everyone needs or wants the federal government to usurp that prerogative. The federal government, acting as an employer can help encourage other employers to address this issue be adopting 5.38.

There are two important long-term care issues before us today. One is the need to provide stable financing of long-term care through prefunding, taking advantage of the wonders of time, compounding, and pooling of resources (insurance). S.38 offers this opportunity to federal employees. The other is a transitional problem for those that have not had the availability of the private sector products we have today and will have tomorrow. We must not eliminate future options in the haste to address a transitional problem. Rather, we should offer transitional assistance to those who are unable to effectively prefund for their long-term care needs because of their age today, but preserve the maximum flexibility for those of us who should be getting about providing for our own future needs.

Mr. Chairman, the private sector and the federal government as an employer, while they cannot solve the entire long-term care financing crisis, can make a very significant contribution to its resolution. I would encourage this committee to support private sector efforts and individual responsibility tempered with a compassionate response to dealing with the transitional problems as a fundamental response to this crisis. I would hope you would act favorably on S.38

Thank you for the opportunity to address the committee. I would be pleased to answer any questions.

Foster Higgins

November 20, 1989

The Honorable David Pryor
United States Senator
Committee on Governmental Affairs
Washington, DC 20510-6250

Dear Senator Pryor:

It was a pleasure to be able to testify before the Subcommittee on Federal Services, Post Office, and Civil Service on the Federal Employees Long-Term Care Insurance Act of 1989. I especially appreciate your interest in this issue and your willingness to provide a forum for its discussion. I hope that the Committee will act quickly on this important piece of legislation and offer federal employees the opportunity to avail themselves of an employer based long-term care program as soon as possible.

I am pleased to respond to the additional questions you have sent to me. I will respond first to the questions you have addressed to me then to the questions from Senator Wilson that you enclosed.

1. Q. How can 30 year olds be encouraged to buy long-term care coverage which they might not need for another 50 years?

   A. The average subscription age in employer-sponsored long-term care insurance has been approximately age 40. The fact of the matter is that relatively young people are interested in securing long-term care coverage.

   I would suggest that the fact that the premium is much lower when the coverage is purchased at lower ages is a strong incentive. For an annual premium of $200 - $300 per year a person below age 40 can purchase an employer-sponsored long-term care policy as opposed to $800 - $1,000 at age 60 for the same coverage.

   Additionally, the current public discussion about long-term care needs has increased the recognition that such needs do in fact exist. This is further amplified by an increase in the needs of older members of the younger person's family. As we see more people age and using the long-term care delivery system, it brings reality home.

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2. Q. You say there are many good long-term care policies on the market. How does a consumer distinguish between a good and bad policy?

A. Let me first point out that there is a world of difference between the individual policy and the employer based policy. The beauty of employer based policies is that much of the work of locating a good policy is done by the employer. The employer has a stake in the employee getting a good benefit and usually has a superior ability to deal with insurers. This is why proposals like Senate Bill 38 are important.

For an individual, I would suggest that they secure the booklets on long-term care insurance published by the American Association of Retired Persons or the Health Insurance Association of America. They also might get the report from the United Seniors Health Cooperative and avoid policies which have the weaknesses they discuss, such as prior hospitalization. State insurance commissioners are another source of information on policies and what they cover. The key is to offer individuals the opportunity to become informed then act on their own decisions.

There are obvious issues that I would comfortably put in good or bad categories such as nonforfeiture values (good), prior institutionalization requirements (bad), and portability (good). There are others such as inflation adjustments in the initial premium or the right to purchase more coverage at a later time, the amount of coverage, whether the policy is a disability or medical model, etc. which are matters of personal preference.

Often times the difference between good and bad are in the eyes of the beholder. I chose to buy whole life insurance many years ago because I recognized I would not buy invest the difference if I bought term insurance. It is true that I do not have as much cash today as I would if I had bought term and successfully invested the difference. It is also true that I do have a good amount of cash today and many of my friends who took the "best" financial advice do not even have the term insurance today.

The most important assist is to become informed of the options available then determining what, if any, address your needs. This includes a realization that affordable premium is a different number for every person and that lower premiums require other trade-offs.

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3. Q. You state that the intent of S. 38 is good. However, you are concerned about age constraint and portability. Can you elaborate on these points?

A. While I commend the Office of Personnel Management and Senator Wilson for their innovative approach to an employer based long-term care program, I do not agree with earlier OPM statements that there will be little interest below age 50. Indeed, the private sector has shown that there is interest well below that age. There is no reason for OPM to pick an arbitrary age for participation. The entry age should be based on actuarial determination which keep the concept of conversion of life insurance financially sound. The question of whether or not a person age 49 is or is not interested should be left to the individual.

Every employer-based long-term care policy should be portable, especially if the premium has been paid by the employee. The concept of entry-age rated, level premium is based on the accumulation of a reserve by charging more than the term cost in the early years to allow charging less than the term cost in later years. An individual that has contributed to the reserve in the early years should be allowed to continue participation in the program in later years even if he changes employment. This is usually made available by having the individual make payments directly to an insurer since the employer who sponsored the program would no longer be able to make salary deductions.

4. Q. If you were asked to design a model long-term care program for federal employees, what would you include in your proposal?

A. This question is substantially more difficult to answer than it might appear. I am a firm believer in the notion that one size does not fit all. Thus, there would be a need to carefully review the retirement benefits offered to federal employees to determine the unmet needs and the ability to address these needs.

The elements I would consider would be eligibility for enrollment, premium, coverage (amount, maximum duration, copayment and deductible), eligibility for the benefit, nonforfeiture values, inflation protection, portability, limitations and exclusions, underwriting criteria, coordination of benefits and case management. I would also suggest significant investigation into the reserve, how it is accumulated and managed.

Questions from Senator Wilson:

1. Q. The United Seniors Health Cooperative study of LTC policies, as well as the Consumer Report analyses, conclude that policies are limited in the amount of financial protection they offer. Such provisions as prior hospitalization requirements, pre-existing conditions exclusions, age restrictions and limits on levels of nursing home care covered have been identified as problematic restrictions.

   What minimum protections and standards would you suggest OPM require from all insurance companies who bid on OPM's RFP in order to insure Federal employees adequate yet affordable coverage?

   A. I would require that any policy offered meet the minimum requirements set out by the NAIC Model Act and Regulations. From that point, OPM could detail minimum benefit and policy design features which would be required.

   I think it is important to note that the market has worked to offer policies which do not have these limitations. It is unfortunate that there has been a misperception that because one policy has these limits all do. The market is changing. A review of existing employer based policies would give very different results.

   It is also important to remember that we are talking about the private sector addressing a portion of the problem. There are those who will not be candidates for private LTC because of age or existing conditions. The OPM policy will not be able to assist them. Those are transitional problems and will need to be addressed as a separate public policy issue. We can, however, use the private sector mechanisms to avoid those problems in the future.

2. Q. In light of fiscal realities, such as the federal budget deficit and the fiscal problems expected for Medicare over the next 20 to 40 years, and the unlikelihood of a comprehensive public insurance approach to LTC financing in the United States, what viable near-term options exist for beginning to tackle the problem of providing Americans access to long-term care? Do you consider S. 38 an important step toward improving access to LTC coverage?

A. I consider S. 38 an important step toward providing access to LTC coverage. I believe that employer-based LTC coverage is both a short-term and long-term solution to providing access to long-term care coverage. There will be some who cannot avail themselves of LTC coverage and will need public assistance, but that number can be reduced over time. Further, the amount of individual burden can be reduced by using the pooling concept found in insurance.

The movement of the Federal government, as an employer, in the area of private long-term care coverage will be a clear signal to the employer community that public policy will support such employer based benefits. I think it will create a domino effect which can only reduce the need for public programs in the future.

3. Q. Clearly, many of the nation's senior citizens have sufficient income and assets to pay for nursing home or home-based care. Given that, what is the policy rationale or social purpose of mandating public coverage to all senior citizens, including those able to pay for care?

A. There are those who suggest that a universal system for LTC financed at the Federal level is good public policy. I disagree. I believe that the alternatives offered in a pluralistic system are far better for most people. I believe that the Federal government should foster an environment which encourages those with the resources to provide for themselves. This will leave the limited Federal funds available for use by the truly needy.

It seems that the more important question is whether we should establish a federal policy which would help preserve estates with tax dollars. I think there are better uses of federal funds.

4. Q. I share concerns that only a minuscule portion of long-term care expenses are now covered by any form of insurance - public or private. As you noted in your statement, the potential for growth of private sector long-term care financing mechanisms is considerable yet untapped. My legislation seeks to give Federal employees access to long-term care coverage and motivate private insurance companies to develop competitive long-term care policies.

Do you agree that this proposal will contribute to improving the private sector's ability to provide long-term care? What benefits do you expect will result if Congress allows OPM to proceed with this proposal?

A. If Congress allows OPM to proceed with this proposal, it will give a clear public policy signal to employers to become active in this area. There will be a great deal of movement from employers who are currently waiting for public policy to sort itself out. They do not really believe that there will be a comprehensive public program, but are unwilling to move, then have the government enact a program that would require them to redesign their program. If OPM were allowed to move in this area I think it would resolve a good deal of that concern.

The market would be encouraged by the potential of several million new enrollees. It is hard to imagine that this would not stimulate insurers to develop innovative policies to secure the new enrollees. I clearly believe that passing S. 38 is the most realistic thing Congress can do to assist individuals in securing access to good quality long-term care coverage.

I am not persuaded that there is the ability to create a universal public LTC program. If that is the sole recommendation of the Bipartisan Commission, it may feel good about its recommendation, but it will have failed to do anything meaningful. It is because of that belief that I believe it is important to get on with S. 38, which is one of many responses to funding LTC.

5. Q. It has been argued by some that stimulation of the private long-term care insurance market will significantly reduce the cost of taxpayer-supported programs to provide long-term care.

What types of savings could Congress hope to realize if private long-term care insurance were to be maximized through the full use of innovative financing mechanism such as conversion of life insurance to long-term care coverage?

A. Studies done at the Department of Health and Human Services show the possibility of Medicaid savings in the range of 1% to 12% depending upon the age of purchase and the type of vehicle chosen. These models were developed using early first generation LTC policies. Most were predicated on a much older purchase age than we see in the plans sponsored by employers. As a result, I believe that these numbers are less optimistic than we thought back then (three to four years ago).

There is every reason to believe that with innovative ideas like those presented in S. 38 and others that the upper end of savings estimates can be exceeded. The easier it is to purchase LTC insurance and the more readily available policies are in the employer based market, the more enrollment we will see.

It is important to remember that the amount of services paid for by LTC insurance will not increase immediately. Unlike health insurance, we are not buying it for use this year, we are buying it for use in the future. It is important that we start in the direction we need to go. That will help avoid a crisis building in the future. It will also give us the breathing room to address transitional problems along the way.

This concludes the questions you have addressed to me and my responses. If I can be of further assistance to you and your Committee, please do not hesitate to call on me.

Sincerely Yours

Dennis L. DeWitt
Managing Consultant

cc: Senator Ted Stevens
Senator Pete Wilson

STATEMENT OF THE HEALTH INSURANCE ASSOCIATION OF AMERICA

PRIVATE LONG-TERM CARE INSURANCE
AND
SENATE BILL 38

Presented by

Bruce L. Boyd
Vice President

Teachers Insurance and Annuity Association/
College Retirement Equities Fund

Before the

Subcommittee on Federal Services,
Post Office, and Civil Service

Committee on Governmental Affairs

United States Senate

November 2, 1989

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Good morning Mr. Chairman and Members of the Subcommittee. I am Bruce L. Boyd, Vice President of the Teachers Insurance and Annuity Association/College Retirement Equities Fund. I am also Chairman of the Long-Term Care Task Force of the Health Insurance Association of America (HIAA). HIAA represents some 350 insurance companies which write about 40 percent of all health insurance in this country.

On behalf of HIAA, I appreciate the opportunity to talk to you today about our role in helping to pay the nation's long-term care bill and our support of Senate Bill 38. Today, over 100 companies have provided long-term care insurance protection to more than 1.3 million people. Such coverage is offered through a variety of mechanisms, including individual and employer-sponsored arrangements and riders to life insurance plans.

Let me begin by summarizing the most important points of my testimony.

- While the current "system" is flawed, the financing of long-term care is complicated and requires a thoughtful solution, not a rush to judgement.
- Fiscal realities and other national priorities make it irresponsible to place the financing burden primarily on the nation's taxpayers. All elements of society -- individuals, families, volunteer organizations, employers, and insurers must also play a vital role.
- There is a growing and critical role for private insurance to provide a better means of financing long-term care for those who can afford to protect themselves.

- There is a continued and indeed, greatly improved role, the government can play in financing long-term care for those without adequate resources to protect themselves.
- There continues to be a critical government role, independent of financing care, in data collection and research to further our collective knowledge about who needs long-term care, what services should be provided, and what the total costs to society will be.

To address these concerns, HIAA believes the following steps must be taken:

1. Educate the public. Without understanding the problem, the public cannot be expected to understand the appropriate solutions. It is critically important for the public and private sectors to do more in this area.
2. Improve the government's ability to target assistance to those most in need. The government must take full responsibility for providing care to those without resources to care for themselves.
3. Stimulate the private insurance market through clarifications and changes to the tax code. Such actions offer immediate help for today's elderly. And, they offer a longer range solution for tomorrow's elderly who have the time to prefund for their potential long-term care needs on an affordable basis.

   Giving long-term care insurance the same tax status as health insurance would encourage the employer group market which has significant cost and consumer protection advantages.
4. Maintain state regulation of private long-term care insurance. Consumers must have access to products with solid protection. Passage of the NAIC Model Bill in those remaining 13 states without such standards is one of HIAA's highest priorities.
5. Continue government support for long-term care data collection and research. All of society benefits from activities such as biomedical research investigating the causes of chronic illness and national surveys of the long-term care population.

6. **Promote cooperative public-private financing and delivery arrangements on an experimental basis. A comprehensive national policy should be based on a full understanding of the alternatives and their cost-effectiveness.**

Senator Wilson's bill, S. 38, is a very positive first step toward accomplishing these objectives. The bill the country's largest employer to provide with critically important long-term care protection and it helps stimulate the employer group market which has vast potential. Moreover, S.38 does not require the federal government to spend more money because the benefit is funded either by existing dollars, with a supplemental employee premium, or solely by employee contributions without drawing down life insurance benefits.

HIAA supports S. 38 and we look forward to working with you toward its passage. Working together, the public and private sectors can design a long-term care financing framework that we can live with today and our children can live with tomorrow.

Nature of the Problem

When we speak of "long-term care," we are describing a wide range of health and personal care services provided to individuals who have lost some or all capacity to function independently due to a chronic illness or condition. According to AARP, an estimated 9 million elderly will have long-term care needs by the year 2000. About 70 percent of the noninstitutionalized elderly with long-term care needs receive all their help from family members and friends. However, 30 percent receive additional paid home care services and about 40 percent of all elderly will spend time in a nursing home.

Long-term care is the major catastrophic health care expense faced by the elderly today. Instead of pooling risks, the current system places each household on its own and Medicaid becomes the payor of last resort when household resources are depleted. This approach, combining out-of-pocket outlays and welfare, features remediation and relief when prevention and planning would be preferable.

Moreover, the long-term care problem is not just a financing one. Long-term care delivery systems are fragmented and piecemeal; case management models to coordinate and manage costs are still being developed and refined, and there is no guarantee that one model will be appropriate for all communities. The most efficient payment methods for providers are still being tested and evaluated. Data on long-term care service use are inadequate for fully understanding the current situation or for making accurate estimates about future utilization and costs, especially for community-based services.

Today's situation calls for thoughtful and deliberate approaches such as S.38 not a quick plunge into a broad national "solution" that fails to recognize how these financing and delivery issues affect costs and access to care.

Appropriate Public Financing Role

An estimated $56 billion was spent on all long-term care services in 1987. Over half, $30.6 billion, was paid by the public sector. Assuming no change in our current financing system, the Congressional Budget Office has estimated that this figure could increase between 50 and 200 percent by the year 2000.

Given today's fiscal realities and competing national priorities, we cannot expect the public sector to take on such an enormous and unwieldy financial responsibility. Instead, HIAA believes that public policy should be targeted toward finding ways to more effectively use the private resources already being spent for this care, thereby reducing future public long term care expenditures. Those who can afford to protect themselves should be encouraged to do so.

It is not the role of government to protect and preserve assets or income levels of individual citizens against the various contingencies of life. In general, it is the responsibility of individuals to plan for their own needs to the maximum extent possible. It is the role of government to provide sensitive and responsive support to those who face needs beyond their individual financial capacity to deal with them.

The government should target its limited resources to assist those who can least afford such protection. Private insurance products are not designed for, nor do they lend themselves, as financing vehicles for people who are already quite old, disabled, or poor.

Providing care for this population should be the objective of the public sector, and reforms are needed to improve the government's ability to act as a responsible safety net for those who must rely on it.

New Developments in Long-Term Care Insurance

A national survey conducted last year by the University of Maryland's Center on Aging found surprising willingness by the public to purchase a long-term care plan if it met their long-term nursing home and home health care needs. Overall, over one-half of those surveyed indicated they would pay $100 a month for such a plan. In addition, two-thirds of full-time workers said they would be more willing to purchase a policy if it were offered by their employer, even if the employee paid all or some of the premium.

The long-term care insurance market is developing rapidly, as evidenced by the number of companies developing products, the number of individuals covered and the variety of products being developed. There are now over 100 companies selling a long-term care product and almost all of this growth is since 1985. Today, about 1.3 million persons have purchased a long-term care plan.

More importantly, the products themselves are changing. The earlier products tended to be more limited. For instance, they covered only stays in a nursing home and then only following a hospital stay. But virtually all the newer products offer coverage of nursing home and home health care, without institutional gatekeeping mechanisms like prior hospitalizations. Instead, benefits are often triggered based on the need for assistance in personal care functions such as bathing, walking, and dressing. In addition, they provide inflation protection against future long-term care costs. We will see a continued trend toward more comprehensive and liberal benefit provisions as the market place becomes more competitive.

The recent introduction of employer-sponsored plans is particularly promising. These employee pay-all plans offer the opportunity to reach a large number of people efficiently during their working years when premiums are more affordable. Coverage in the workplace offers the additional advantage of employers selecting the best plan at the best price for their employees.

Since 1987, over 35 employers have offered such coverage. Two-thirds of this growth occurred this year and we can expect several more plans to be offered within the coming year. Enrollment experience from 1988 employer group plans shows the average age of employees electing this coverage is about 40. This is strong evidence that with education, younger people can and will purchase long-term care protection. And, most of these plans offer coverage to the elderly as well by including retired employees and their spouses and parents of the employee and employee's spouse.

Challenges to the Long-Term Care Insurance Market

HIAA believes that several factors could hasten the development of private long-term care insurance and strengthen its ability to respond to the public's demand and need for long-term care protection.

Educating the Public

The need for better consumer education is the responsibility of both the private and public sectors. It is virtually impossible to sell a product to someone who already believes they have it. However, this is where we find ourselves with long-term care insurance. Education should begin early, so that working age people can plan for their potential long-term care needs while they have the income to do so.

HIAA has undertaken a number of initiatives in this area. One example is the "Consumer's Guide to Long-Term Care Insurance". Over one million copies have been distributed. After an ad campaign last fall, we received over 1500 consumer requests a week. The government run Consumer Information Center in Pueblo, Colorado has received several thousand requests for our Guide. It is clear the public wants information on this subject. HIAA remains willing to work with all levels of government to further similar communication and education efforts.

Information and Research Needs

Although insurers are gaining more experience in long-term care, the federal government remains the most effective organization for collecting and analyzing data on a national basis. Surveys such as the National Long-Term Care and National Nursing Home Surveys provide invaluable information to public and private decision makers alike. The federal government must continue this important function by providing data in a useful and timely manner.

In addition, more government resources are needed in basic and applied biomedical aging research to facilitate the management of chronic disease and disability. Treatments which ameliorate or control conditions such as Alzheimer's disease, incontinence, and osteoporosis will greatly enhance the quality of an older person's life and significantly reduce the need for costly long-term services.

Lastly, many needs of impaired people, such as running errands, doing odd jobs around the house, and enjoying social visits, cannot be expected from a public or private insurance program. Our voluntary service sector must mobilize to more systematically meet the needs of a society that will continue to age. The public sector could play a vital role in stimulating these actions.

Combining our collective knowledge, the public and private sectors can move toward the design of the optimal long-term care program. Better utilization data are needed. To further this development, HIAA also supports research and demonstration efforts such as the Robert Wood Johnson Foundation planning grants to the states to develop public-private financing and delivery models for long-term care.

Federal Tax Environment

Long-term care insurance is a new product with an uncertain status under the federal tax code. In order to stimulate the growth of private insurance, especially employer sponsored coverage, and reduce its costs, the federal government needs to clarify its tax status. Such actions include:

- giving long-term care insurance the same tax status as health insurance with regard to the treatment of premiums paid and benefits received under individual and group contracts,
- promoting employer sponsorship of long-term care insurance as an employee benefit by removing restrictions that inhibit prefunding of retiree benefits and be permitting long-term care insurance as a cafeteria plan benefit, and
- permitting a variety of existing asset accumulation vehicles, such as pension plans and life insurance, to be modified to fund long-term care options.

In addition, some form of limited premium subsidy for the purchase of long-term care insurance might be considered. This approach could be especially beneficial for today's elderly who did not have the opportunity to buy private insurance at a younger age when premiums would have been more affordable. We believe that these incremental actions are affordable and would contribute to the ultimate development of a public-private partnership.

State Regulatory Environment

Long-term care insurance is a new product that continues to evolve. Insurers need a state regulatory environment which is sufficiently flexible to allow for the development of new and different products but is equally effective in protecting consumers. In December 1986, the National Association of Insurance Commissioners (NAIC) first adopted model legislation that successfully balances these two objectives. Since then, the model statute has been modified several times to better meet consumer needs.

As of July, 37 states had passed legislation or adopted regulations that met or exceeded the provisions of the model bill. We are encouraged at the speed with which states have acted to govern this new product. As an industry, we must minimize the potential for consumer abuses if we are to sustain a viable market. It is a top priority of HIAA to work actively in those remaining thirteen states for its passage.

HIAA Support of Senate Bill 38

HIAA believes that Senator Wilson's bill, S. 38, is a very positive step toward accomplishing many of the objectives we believe so necessary to help solve the long-term care financing problem. In summary, we believe the following elements of the bill are especially important:

- As we proposed above, many different asset accumulation vehicles such as pensions plans, IRAs, and life insurance policies should be made available for the purchase of long-term care insurance. S. 38 follows this principle by ultimately allowing up to 2.8 million people to use resources available from their life insurance plans for long-term care protection.

- People's needs vary and change over time. The importance of life insurance protection versus long-term care protection also varies. Because this proposal gives people the option of converting existing assets, it does not cost the federal government additional funds to offer a critically important new option. S.38 also permits people to maintain their life insurance benefits if they choose to fund lorg-term care solely by employee contributions. This timely and thoughtful proposal demonstrates true leadership by the nation's largest employer.

- As we have witnessed thus far in the long-term care market, employer group coverage offers some significant advantages over individual coverage purchased at older ages when products become more expensive. S. 38 will go a long way towards educating the public and stimulating the employer market simply because it will affect such an enormous group of younger people.

- As the many cosponsors of S. 38 have indicated, such a large scale program could offer a wealth of data and knowledge about the financing and delivery of long-term care. This information could provide valuable insights into the most appropriate directions for a more comprehensive solution in the future.

- As indicated above, long-term care insurance is new and undergoing continual changes as regulatory and competitive pressures build. Because S.38 allows for flexible plan design, it will accommodate the evolving nature of long-term care insurance and it will offer consumers the important element of choice.

We have a few comments and concerns, however, about the particular design of this new program. Although these questions do not change our overall support of the bill, we would welcome the opportunity to meet with you and your staff to discuss them in more detail. Our concerns include:

- It is essential that the federal government take an active and committed role in educating their employees about long-term care and the potential need for long-term care insurance. As we have learned from our experience with employer group coverage, employers must be willing to commit time and resources in communicating this new benefit to their employees if it is to be successful.
- While consumer choice is essential, long-term care insurance is a new, little understood and complicated employee benefit. Too many choices, such as those available in the Federal Employee Health Benefits Program, could lead to employee confusion and misunderstanding of benefit options.
- Although S. 38 allows for persons younger than age 50 to be eligible for the benefit at some point in the future, we believe that persons under age 50 meeting the FEGLI participation requirements should be allowed to participate from the start. Our experience in the employer market indicates that the average age of full-time workers electing this benefit is about 40.
- The long-range and prefunded nature of this benefit makes reserves a very important funding element. It is vital that the reserves set aside be kept in a separate trust and be made available only for long-term care. Furthermore, the entity holding the reserves should be responsible for obtaining the optimal rate of return to help stabilize premiums.
- As we have recommended in our testimony, there are several federal tax issues that must be clarified to allow for the full development of long-term care insurance. It is likely that the bill's proposed use of converted life insurance reserves would require some tax clarifications.
- Although S. 38 suggests that reinsurance by other carriers is an option for the insurer issuing the long-term care policy, similar language in the FEGLI statute has led to mandatory participation of reinsurers in that program. Therefore, this section of the bill should be clarified.

Summary and Conclusion

The flexibility of private insurance offers families and the elderly the preferred approach to prefunding long-term care for many Americans. And, over time, we believe private insurance will give millions of people an opportunity to be financially independent throughout their retirement years. S.38 takes a solid step in this direction.

HIAA believes it would be a mistake to minimize the role of private insurance in designing a comprehensive national policy for long-term care. Instead, the public and private sectors must combine their efforts and knowledge to create a solution that will benefit most Americans today and in the future. This investment will pay off many times over as you and I grow older and it will help us avoid placing an insupportable tax burden on our children.

Thank you Mr. Chairman and Members of the Commission. We look forward to working with you to provide further assistance in this area.

Statement

# of the

American Council of Life Insurance

On

PRIVATE LONG-TERM CARE INSURANCE AND THE FEDERAL EMPLOYEES LONG-TERM CARE INSURANCE ACT OF 1989 (S. 38)

Presented by

Richard V. Minck
Executive Vice President

Before the

Subcommittee on Federal Services,
Post Office, and Civil Service of the
Senate Committee on Governmental Affairs

November 2, 1989

Good morning Mr. Chairman and Members of the Subcommittee. My name is Richard Minck. I am Executive Vice President of the American Council of Life Insurance. I am accompanied today by Stephen Kraus, Senior Counsel - Pensions at the ACLI.

I am pleased to testify today on behalf of the American Council of Life Insurance about the efforts of the life and health insurance industry to address a critical gap in this country's economic safety net for our elderly citizens. I refer to the overwhelming costs of long-term care in nursing homes and at home. My testimony will also address S. 38, the "Federal Employees Long-Term Care Insurance Act of 1989", a bill to make long-term care insurance available to civilian Federal Employees.

There is currently no program, either public or private, which provides protection to most people against the devastating financial impact long-term care costs can have. The insurance industry believes the most effective way to solve this problem is through a creative partnership between the public and private sectors. My comments today are limited to one aspect of this partnership: modification of the current tax law in order to create an environment that will permit and encourage insurers to develop products that will provide long-term care protection and will help make it possible for employers and individuals to purchase these products.

The ACLI is the major trade association of the life insurance industry, representing 640 life insurance companies. Together, our members hold approximately 94 percent of the life insurance in force in the United States and approximately 94 percent of the assets of life insurance companies.

I. LONG-TERM CARE

Long-term care includes a wide range of medical and support services for people who suffer physical or mental disorders causing functional limitation or disability and who therefore need assistance for an extended period. The responsibility for providing long-term care assistance ranges from the individual and family to the government through the Medicaid program for those unable to provide for themselves.

Long-term care is the major source of significant medical expense paid for directly by individuals and their families today, particularly the elderly. About 1.3 million elderly, or four percent of the population 65 or older, receive long-term care in nursing homes. An additional 5.3 million receive long-term care in their homes or in other settings. The number of elderly needing long-term care is expected to increase by nearly 50 percent by the year 2000, before even the oldest baby boomers reach retirement age.

Private long-term care insurance can assist in providing protection against the overwhelming and mostly uncovered costs of long-term care. As the report to Congress and the Secretary by the Task Force on Long-Term Care Policies of the U.S. Department of Health and Human Services, dated September 21, 1987 states at page 1: "Private long-term care insurance gives individuals the opportunity to retain choices and develop a flexible, planned response to a potentially ruinous event ... Insurance offers the most cost-effective, collective approach to meeting financial risks that often devastate individuals."

The number of companies developing long-term care insurance products, the number of individuals covered and the variety of products being developed, is increasing. Today, more than 100 companies are offering long-term care health insurance policies covering 1.3 million individuals. This compares to 75 companies and 815,000 individuals in 1987. Also, many life insurance companies are either offering or developing accelerated death benefit policies. The extent of coverage still remains quite small, however, relative to the potential.

An important factor that is inhibiting even faster growth of a private long-term care insurance market is the uncertain tax treatment of long-term care policies to (1) employers and their employees who may want to add long-term care protection as an employee benefit; and (2) individuals who will receive long-term care benefits.

II. CURRENT LONG-TERM CARE INSURANCE CONTRACTS

Initially, long-term care policies were only marketed on an individually-purchased basis, but now are increasingly being offered through employer-sponsored programs. The tax laws should be clarified to encourage the rapid development of this latter type of program since such programs will permit a large number of people to obtain protection against long-term illness costs.

Another important development is that life insurance companies are designing a new generation of life insurance policies that permit the death benefit to be accelerated in response to the growing need for more comprehensive health care coverage. This cost-effective approach uses a life insurance policy as the foundation to provide long-term care benefits. Such coverage may be included as part of a life insurance policy at issue or added as a rider to an existing policy (hereinafter referred to as "riders"). Providing this coverage under a life insurance policy eliminates the administrative costs of a separate contract, enables the company to coordinate design of contract benefits to prevent coverage overlap, and insures against lapse of the coverage by permitting policy loans to pay premiums not otherwise paid by the policyholder when due. More importantly, however, is the cost savings inherent in utilizing the value of the death benefit and cash value of the underlying life insurance policy to provide the long-term care benefits.

A long-term care rider provides for the payment of a specified percent of a policy's death benefit each month the insured requires long-term care. Such payments reduce both the policy's cash value and death benefit in a predetermined amount. Under another policy design, the policyholder has the option of receiving a lower payment based only on the excess of the death benefit over the cash value of the policy. Under this option, only the death benefit decreases each month by the amount paid.

Like long-term care health insurance policies, long-term care riders provide payments when an insured receives health or medical care services that are prescribed by a physician or other licensed health practitioner including such services for care resulting from a physical or mental impairment that makes the insured unable to perform one or more activities of daily living. The activities of daily living generally include: (1) Bathing; (2) Dressing; (3) Toileting; (4) Eating; (5) Transfer - the ability to move in or out of a bed or chair; and (6) Mobility - the ability to walk or move in a wheelchair on a level surface.

I believe an example of a particular long-term care rider would be helpful.

Assume long-term care payments begin under a policy purchased by an individual with a $100,000 death benefit and a $10,000 cash value. The first monthly payment equals $2,000 -- that is, two percent of the death benefit. Both the death benefit and the cash value would be reduced by two percent so that after the first payment the death benefit and cash value will be $98,000 and $9,800, respectively. Under this particular policy, the policyholder has the option of keeping the cash value intact by choosing to receive a lower payment of $1,800, resulting in reduction of only the death benefit to $98,200 and leaving the cash value at $10,000.

III. NEEDED CHANGES IN THE TAX LAWS

In order to make it possible for insurers to market long-term care products successfully, the insurance industry believes that several favorable clarifications and changes are needed in the current tax law as respects both long-term care health insurance policies and long-term care riders under life insurance policies:

(1) Long-term care benefits. Long-term care benefits paid under life or health insurance policies should be treated like health insurance benefits, and thus, excludable from the income of the policyholder.

(2) Premiums for long-term care benefits. Amounts paid to an individual by reason of coverage under a long-term care policy should constitute payment for expenses incurred for medical care and therefore any premium for such coverage should be deductible just as premiums for other policies covering medical expenses are deductible.

(3) Inclusion of long-term care insurance in a cafeteria plan. Coverage under a long-term care insurance policy should be allowed as a benefit under the cafeteria plan provisions, thereby allowing employees to elect such coverage to be paid from the available pool of dollars.

(4) Treatment of long-term care contributions under certain employer programs. Contributions made by an employer on behalf of its employees for benefits under a long-term care insurance policy should not be includible in the employees' income.

(5) Use of IRA assets, pension payments, or life insurance cash values to purchase long-term care

insurance. The use of IRA assets, proceeds from qualified pension or profit sharing plans, or proceeds from annuity, endowment, or life insurance contracts to pay for long-term care insurance should be allowed without a tax liability, even though such distributions might otherwise be taxable.

(6) Exchanges of life insurance or annuity contracts for long-term care insurance contracts. Individuals with accumulated cash values in life insurance or annuity contracts should be allowed to exchange such contracts for long-term care insurance without incurring a tax liability.

(7) Tax credit for long-term care insurance. Either in lieu of, or coordinated with, the exclusion of IRA, pension or cash value proceeds when used to purchase long-term care insurance, a refundable tax credit should be provided for lower-income individuals who purchase long-term care insurance.

(8) Definition of life insurance. It should be made clear that the presence of a long-term care rider does not alter the status of the basic policy as one of life insurance for purposes of the tax law. Also, policyholders should be allowed to pre-fund the accelerated death benefits (e.g. by paying the premiums on a level basis).

IV. FEDERAL EMPLOYEES LONG-TERM CARE INSURANCE ACT OF 1989 (S. 38)

At this point, Mr. Chairman, I would like to make a few comments with respect to S. 38, the "Federal Employees Long-Term Care Insurance Act of 1989", a bill introduced by Senator Wilson that would make long-term care insurance available to civilian Federal employees. In its broadest terms, the bill would arrange for qualified employees to have an opportunity to irrevocably convert a portion of the employees' basic life insurance to long-term care insurance. Qualified employees can also independently purchase long-term care insurance without converting a portion of their group-term life insurance.

The Council supports the concepts embodied in S. 38. We believe the proposal offers a creative mechanism which will encourage and enable Federal employees to protect themselves against a potential economic catastrophe in their old age. The proposed legislation grants OPM very broad authority to develop and implement a workable plan. This flexibility is appropriate since the field of long-term care insurance is still very young and evolving, and long-term care policies are continually undergoing changes to accommodate consumer concerns. Such implementation must, however, carefully consider the issues of sound underwriting and plan design.

We believe strongly that the success of this program will depend on effective communication. The program will present federal employees with a series of complicated choices and decisions. It should be made clear to OPM that a comprehensive communications program must be developed as the primary source of information for employees.

We also believe there is a tax issue associated with the conversion provided for in S. 38 that is identical to the issue presented when long-term care benefits are paid under individual life insurance policies. When an employee elects to convert a portion of his group life insurance to long-term care insurance, will the Internal Revenue Service treat this conversion as a distribution from the life insurance policy? If the IRS does so, the employee would have taxable income to the extent the distribution exceeds his basis in the policy.

If the conversion is not treated as a distribution, would it be considered the exchange of part of a life insurance policy for a long-term care insurance policy? If it is, there still would be adverse tax consequences to the employees, since exchanges are taxable unless they are like-kind exchanges. Under current law, the exchange of a life insurance policy for a long-term care policy is not a like-kind exchange. Our legislative program outlined earlier in this testimony would favorably resolve these questions by clarifying that there would not be any tax liability associated with the conversion.

I would now like to offer specific comments on a few sections of the bill.

Proposed Section 8704(e)(1)(E) allows OPM to arrange for employees, at their option, to purchase supplementary long-term care insurance coverage on a spouse without evidence of such spouse's insurability. Consideration should be given to requiring evidence of good health and/or inclusion of a pre-existing condition limitation as a prerequisite for spousal coverage. For this purpose, a short list of medical questions is likely to suffice. Otherwise, the cost of this coverage will be significantly higher.

Proposed Section 8704(e)(3) provides that reimbursement rates for benefits and employee contributions will be indexed to the general schedule or to another appropriate index. We agree that both reimbursement rates and employee contributions should be indexed, but not on the same basis. The initial premiums for long-term care coverage will be developed to provide for expected future benefit requests at the initial benefit levels. If subsequent to the initial date of coverage, the level of benefits is increased, the level of contributions or premiums must be increased by some greater percentage since, in comparison to the initial level of benefits, there is a shorter period of time available to meet the costs of these additional benefits.

Proposed Section 8704(e)(4)(B) defines a qualified employee as one who is, among other things, 50 years of age or older during the five-year period beginning on the effective date of the legislation. Subsequent to this period, employees younger than 50 may qualify if OPM regulations so provide. We believe individuals should be encouraged to acquire long-term care coverage at the earliest age possible when the premium is most affordable. Therefore, we do not believe there should be any age restriction imposed on the employees.

Proposed Section 8704(e)(7)(a) authorizes OPM to purchase long-term care insurance from insurers who agree to accept liability for the benefits offered. In order to meet the obligations to pay promised benefits insurers normally establish liabilities (reserves) for the value of the obligations and hold assets in an equal amount to enable them to meet their obligations when they become due. While the legislation is clear regarding the fact that insurers will be liable for paying the benefits, it is not at all clear in defining the manner, the timing and the amount of funds to be transferred to the insurance company so that it can pay the promised benefits. In order for the program to be successful, it is critical that this important, open question be resolved.

Finally, Section 8704(e)(7)(a)(2) provides that an insurer, in order to offer long-term care insurance as part of the Federal program must have long-term care expertise, substantial experience with insuring very large groups, and financial soundness. While we agree these are appropriate criteria, the selection process should include all companies that can meet these criteria even though they are not among the largest insurers doing business in the United States.

V. CONCLUSION

The problem of long-term care is a critical issue for the nation. Favorable clarification and change of current tax law with respect to long-term care insurance policies will go a long way towards addressing this problem and encouraging insurers to develop an extensive, private long-term care insurance market. Moreover, such action will encourage individuals to purchase long-term care insurance at younger ages when the price is more affordable and will stimulate employers to provide coverage to their employees where the potential for reaching the most people is greatest. Finally, allowing individuals to use current accumulated assets on a tax-free basis to purchase long-term care insurance will help those individuals who have a fairly immediate need for long-term care protection.

Thank you, Mr. Chairman, for the opportunity to present our views.

November 28, 1989

The Honorable David Pryor
Chairman
Subcommittee on Federal Services,
    Post Office and Civil Service
Committee on Governmental Affairs
United States Senate
267 Senate Russell Office Building
Washington, D.C. 20510

Dear Senator Pryor:

In response to your letter dated November 9, 1989, the American Council of Life Insurance (ACLI) and the Health Insurance Association of America (HIAA) have jointly addressed the questions raised from the November 2, 1989 hearing on S. 38, the Federal Employees Long-Term Care Insurance Act. We understand that these written comments will become part of the hearing record.

The enclosed response represents the shared views of the ACLI and HIAA. We appreciate the opportunity to comment further on the importance of private long-term care insurance in helping to address the nation's long-term care financing problem. Should you have any questions, please contact Stephen Kraus at ACLI (624-2109) or Susan Van Gelder at HIAA (223-7871).

Sincerely,

Richard V. Minck
Richard Minck
Executive Vice President
ACLI

Bruce Boyd
Bruce L. Boyd
Chairman
Long-Term Care Task Force
HIAA

Enclosure

cc: Senator Pete Wilson
    Denese Boerum

/sdw

November 28, 1989

American Council of Life Insurance

Health Insurance Association of America

ANSWERS TO QUESTIONS IN CONNECTION WITH TESTIMONY BEFORE THE SUBCOMMITTEE ON FEDERAL SERVICES, POST OFFICE, AND CIVIL SERVICE ON THE FEDERAL EMPLOYEES LONG-TERM CARE INSURANCE ACT OF 1989 (S. 38)

1. In your statement, you state that "long-term care includes a wide range of medical and support services for people who suffer physical or mental disorders causing functional limitation and/or disability. . . ." Do you feel S.38 addresses all the possibilities that fall under this category?

Yes, S.38 contains a broad definition of "long-term care insurance" (proposed New Section 8701 (e)) that would cover a range of medical and support services needed by people who are suffering from physical or mental disorders that cause functional limitation or disability.

2. You say in your testimony that there should be certain prerequisites for spousal coverage. Could you elaborate on this point?

As I mentioned in my testimony, proposed Section 8704(e)(1)(E) allows OPM to arrange for employees, at their option, to purchase supplementary long-term care insurance coverage on a spouse without evidence of such spouse's insurability. I indicated that without such evidence of insurability, the cost of the spousal coverage would be significantly higher. For this purpose, determination of spousal insurability could be accomplished if the application included a short list of medical questions. Another possibility would be to have the spouse verify that he or she had not been confined due to long-term care needs within a certain number of days preceding the application (such as 90 days).

3. In your statement, you state that contributions and benefits should be indexed to different inflation components. What would you suggest these be?

We do not have any particular preference with regard to what index should be used to increase the long-term care benefits. S.38 uses the pay rates for the General Schedule as the index. You may just as easily use the Consumer Price Index. Naturally, the faster the index rises, and therefore, the higher the benefit payment, the higher the premiums will be. The Subcommittee may wish to examine the historical pattern of each index before making a determination.

While we recognize the need for a predictable increase in benefits over time, merely adjusting premiums by the same index is inappropriate. The additional premium for the higher benefit should be developed by the insurer based on actuarial principles taking into account, among other things, the additional benefit and when it will be paid, expected future costs and when they will be incurred, and expected investment earnings on premiums paid.

4. What specific language would you include in S.38 to address the subject of the transfer of reserves between the Federal Government and the insurance company?

When I addressed this issue in my testimony, I was assuming all reserves were to be held by the government with respect to the purchase of long-term care protection, whether as part of the life insurance conversion or as a separate employee purchase. The point of my comment was that as insurers were going to be liable for the benefits offered, they would want to hold assets in order to enable them to meet their obligations when they became due. To the extent the Government holds all or part of the premiums paid for the long-term care coverage and/or the monies transferred to the long-term care account in a conversion situation, insurers must be given an unqualified right to tap these amounts, and any interest earned thereon, in order to recognize them in determining premiums.

5. In your testimony, you state that a broad national solution fails to recognize how these financing and delivery issues affect costs and access to long-term care. Does this mean that S.38 does, in fact, recognize all these same issues?

As our testimony indicated, we do not believe that the long-term care financing solution lies solely with the public sector. Although not everyone can do so, we believe that the vast majority of Americans should and would prefer to plan for their own retirement needs if given the opportunity. In this regard, S.38 is a very positive first step in this direction. It allows the country's largest employer to provide employers with the opportunity to obtain critically important long-term care protection, and it helps stimulate the employer group market, which has vast potential. Finally, it gives people the opportunity to plan for their own needs using existing resources.

6. What companies are currently offering their employees a long-term care benefit? How are these programs currently priced? What provisions are the employees desiring? What are the costs to both employer and employee?

As of mid-1989, we are aware of about 35 large employers who had offered their employees a long-term care insurance benefit. Most of this growth occurred in 1989. Employers include: American Express; Proctor and Gamble; General Foods; Bell Atlantic; First Interstate Bank; Harnischfeger Industries; and the states of

Alaska, Maryland, Ohio, and South Carolina. To date, about 10 insurers have developed and sold an employer-sponsored plan.

On average, somewhere between 7 and 10 percent of active workers have elected to participate in this new employee-pay-all benefit, although the highest enrollment figure to date has been 22.5 percent. The average age of employees electing the benefit has been 40. Most plans have extended coverage to the employees' spouses as well as the parents and parents-in-law of the employees and to retirees and their spouses.

Virtually all the plans are level funded with entry age level premiums. They offer both nursing home and community-based services after the participant becomes disabled in a specified number of Activities of Daily Living. Benefit features that are attractive to employees include: The ability to receive needed care at home, the option of increasing the benefit amount over time to help meet the expected future costs of long-term care, a choice of waiting periods, daily benefit payments and maximum lifetime limits, and the choice of purchasing a nonforfeiture feature such as extended term, reduced paid-up, or return of premium at death.

At this time, employers have contributed to the employees' premium in only a couple of cases. Although enrollment data are not yet available on these cases, the participation rate is expected to exceed one-quarter of all employees in one case because of the reduced cost to the employees.

7. In your testimony, you state that one way to hasten the development of private long-term care insurance is through educating the public. How would you suggest this be accomplished?

The need for better consumer education is the responsibility of both the public and private sectors. Education should begin early, so that working age people can plan for their potential long-term care needs while they have the income to do so.

HIAA has undertaken a number of initiatives in this area. Over one million copies of HIAA's "Consumer Guide to Long-Term Care Insurance" have been distributed. After an ad campaign in the Fall of 1988, we received over 1500 requests per week for the Guide. The government-run Consumer Information Center in Pueblo, Colorado has received request for several thousand copies of the HIAA Guide, and some states have adopted it as their own long-term care consumer guide. It is clear that the public wants information on this subject.

The public sector must also act. A consumer guide to long-term care and options for financing this care could be provided to each new Medicare beneficiary at the time of enrollment. Area Agencies on Aging could be designated as a community source for information on long-term care. Obviously, training sessions and materials would have to be developed. Public service radio and television announcements could be developed which inform the public about the need to plan for long-term care, the role of Medicare, and how to obtain further information. It will take a united and stepped-up effort to ensure that the public is made aware of the problem.

8. How can 30 year olds be encouraged to buy long-term care coverage which they may not need for another 50 years?

Many 30 year olds are buying long-term care insurance today; the average employee age is 40. Clearly, the most efficient way to reach non-elderly people is through the work force, as has been the case with health insurance in general. A national public opinion poll conducted by the University of Maryland's Center on Aging found that two-thirds of full-time workers indicated that they would be more willing to purchase a long-term care insurance plan if it were offered by their employer, even if they paid some or all of the premium.

The federal tax code must also be clarified so that employees are assured that long-term care benefits will be received without adverse tax consequences. Such clarification would encourage greater employer interest in offering long-term care insurance and possibly encourage employer contributions to the premiums. As discussed in the prior question, a knowledgeable work force will spur employer interest. Lastly, as demand grows, the products will change and improve in a more competitive market.

9. In your testimony, you note the need to clarify and modify current tax law as it relates to long-term care insurance policies. What would be the federal budgetary impact of the changes in tax law which you seek?

It is very difficult to come up with precise estimates regarding the federal budgetary impact of the tax law changes we are seeking. However, with respect to the new generation of life insurance policies that permit the death benefit to be accelerated in response to the growing need for long-term care coverage, there are several factors which indicate that the cost would be small.

First, in estimating the revenue impact, you cannot assume that long-term care accelerated death benefits replace payments that would otherwise be taxable. A significant number of individuals who might purchase a long-term care accelerated death benefit would have held the policies until death even without this benefit. In these cases, death benefits are currently excluded from a beneficiary's income and there would be no lost taxes if accelerated benefits are excluded from the policyholder's taxable income.

Second, even if it is assumed that a policyholder would surrender his policy absent an accelerated death benefit rider, it does not necessarily follow that any tax would be due. The policy may not have been in force long enough to produce taxable gain. Even if it was, the policy holder may be eligible for a medical expense deduction, which would off-set all or part of that gain.

Finally, with respect to employer-sponsored programs, in order to determine any budgetary impact, it would be necessary to estimate the growth of this market and the amount of employer contribution toward the long-term care benefit. To the extent the employer-sponsored market remains employee-pay-all (i.e., the employee pays the entire premium with after-tax dollars), the revenue impact of our suggested changes would be minimal. If employers begin to contribute to these programs, which we believe will occur if our tax program is adopted, the revenue effect would be larger, but not significantly, as we anticipate that most long-term care programs will be part of a restructured employee benefit package rather than an additional new benefit.

10. As you know, the cost of the Pepper Long-Term Care Bill defeated by the House last year ranged from $27 billion to $67 billion for five years. Does the HIAA or the ACLI have any idea how much this cost could be reduced if such innovative financing mechanisms as those offered by S.38 and recommended by HIAA and ACLI were fully utilized?

The Pepper bill, H.R. 3436, provided long-term care protection only for services delivered in one's home. It did not provide protection for nursing home care, the true catastrophic long-term care cost. For the elderly who spend more than $2 thousand in health care expenditures out of pocket per year, 80 percent goes toward nursing home care. In this regard, private insurance clearly offers potential state and federal savings compared to spending down to Medicaid as proposed under H.R. 3436.

In terms of home care services, three-fourths of the disabled elderly living in the community receive all their care from family members and friends. They do not receive publically-funded services or purchase care out-of-pocket. Because home health coverage is available under private insurance, it will pay for care that is now paid for with private resources and care that is now provided free by informal caregivers. We could avoid the additional cost of H.R. 3436 if private insurance is given the opportunity to develop and meet both the nursing home and community-based needs of the long-term care population.

11. Can you describe how the insurance industry has responded to the criticisms of LTC products, including the concerns raised by M. Shearer and Mr. Firman?

The insurance industry has responded to criticisms of private long-term care insurance by individual companies developing improved policies and by working and cooperating with the National Association of Insurance Commissioners (NAIC). Since first adopting a model statute governing long-term care insurance products in December 1986, the NAIC, with industry input, has amended the model act and regulation three times to improve long-term care insurance. Each change reflects a move toward meeting consumer needs while balancing the flexibility insurers must have in designing an evolving product. As of July 1989, 37 states had adopted regulations or passed legislation using the model statute as their guide. Companies typically sell products that comply with such regulations throughout the country including those states that have not yet adopted such regulations.

At their December 1989 meeting, the NAIC will discuss many of the issues raised in Ms. Shearer's and Mr. Firman's testimony. The model act and regulation are likely to be amended further. For example, the NAIC is analyzing standards for appropriate inflation protection features. They are also examining the possible need for some form of nonforfeiture value to be included in long-term care policies. In examining both issues, it is essential to look closely at the trade-offs between consumer protection and affordability. For example, while it is absolutely essential that consumers be adequately protected, it is not necessarily true that a specified, mandated nonforfeiture feature will guarantee that protection.

We agree with many of the points raised in the statements by Ms. Shearer and Mr. Firman. We agree that consumer education is vitally important and that benefit eligibility should not be conditioned on prior hospitalization requirements. We also agree that S.38 should offer long-term care protection to persons younger than age 50 and that the uncertain tax status of the benefit available under S.38 must be clarified.

AFGE

AMERICAN FEDERATION of
GOVERNMENT EMPLOYEES

AMERICAN FEDERATION of GOVERNMENT EMPLOYEES
JUSTICE
FRATERNITY
PROGRESS
AFFILIATED WITH AFL-CIO

to do for all that which
none can do for oneself

STATEMENT FOR THE RECORD

BY

JOHN N. STURDIVANT
NATIONAL PRESIDENT

AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES
AFL-CIO

BEFORE

THE SUBCOMMITTEE ON FEDERAL SERVICES,
POST OFFICE AND CIVIL SERVICE

SENATE COMMITTEE ON GOVERNMENTAL AFFAIRS

ON

S.38

NOVEMBER 2, 1989

Mr. Chairman and Subcommittee Members,

On behalf of the American Federation of Government Employees (AFGE), AFL-CIO, which represents over 700,000 Federal workers across the nation, I would like to submit for the record our views on long-term care insurance for Federal employees.

First of all, I want to associate my remarks with those expressed by Vincent Sombrotto, Chair of the FAIR Coalition, of which AFGE is a member. AFGE strongly believes that the legislation introduced by Senator Pete Wilson (R-CA), S.38 does not address eight basic tenets to establishing long-term care insurance for our members. Frankly, the conversion provision of the legislation is the most troubling feature. It is akin to asking someone who is living on bread and water, "Which do you want, bread or water?" Obviously, the Federal employee cannot afford to make a choice between life insurance and long-term care insurance, particularly at the current compensation rates for Federal workers.

Not only would such a choice be difficult financially for most employees, but in AFGE's opinion it is simply the wrong way to address a problem. It goes without saying that there is a critical need for long term health care. However, if some portion of the cash value of employee life insurance is traded for some type of long term care insurance coverage, then another problem is exacerbated. That is, the need of an employee's dependents for life insurance proceeds to aid in their support upon the death of the employee and the concurrent loss of a primary source of income.

Moreover, it is common knowledge that the Federal Employees Health Benefits Plan is in a terrible state of confusion and disarray. The benefits offered are often woefully inadequate and incredibly expensive. The cost of the plan is particularly excessive in light of the depressed compensation received by Federal employees. Thus, logic says that the Congress and the Administration should focus on solving the existing problems rather than on developing a new plan which could so adversely impact upon employees. We have been and will continue to work closely with this Subcommittee and the House Committee on Post Office and Civil Service to solve these and other pressing problems faced by Federal employees.

For these reasons, we must oppose S.38 as currently drafted.

Thank you for the opportunity to submit our views on this legislation.

November 15, 1989

WRITTEN STATEMENT OF
AMEX LIFE ASSURANCE COMPANY

SUBMITTED TO THE SUBCOMMITTE
ON FEDERAL SERVICES, POST OFFICE
AND CIVIL SERVICE COMMITTEE
ON GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

IN CONNECTION WITH THE
NOVEMBER 2, 1989 HEARING ON
S. 38 THE FEDERAL EMPLOYEES' LONG-TERM
CARE INSURANCE ACT OF 1989

Mr. Chairman and Members of the Subcommittee:

We are pleased that your Subcommittee has chosen to hold hearings on S. 38, The Federal Employees' Long-Term Care Insurance Act of 1989. This hearing will provide a valuable forum for the review of policy considerations that must be resolved if this nation is to move forward with a comprehensive long-term health insurance program for its Federal workforce.

AMEX Life Assurance Company, a subsidiary of the American Express Company, is a leader in the private long-term care field, with 15 years of experience in providing quality long term care insurance to the nation. We were the first company to offer products insuring all levels of care without distinction and have an unexcelled record of providing meaningful long-term care benefits to those desiring to protect themselves against the potentially ruinous consequences of long term institutionalization. For many years our products set the standard against which others have been measured. We are considered by many to be the premier insurer of long-term care and such recognition we believe is well merited by our performance.

AMEX Life applauds the leadership displayed by Senator Pete Wilson in introducing this legislation and supports this Committee's interest in providing long-term care insurance to Federal employees through this innovative financing mechanism. In addition to the general impetus it provides, the proposal lends particular support to employer group solutions to the problem of financing long term care.

We do, however, have some comments and concerns that we would like to present.

Plan Availability - We recommend making the plan available to current employees below age 50 and to retirees. To the degree that this brings in groups which, by virtue of their small size, uncertain health or low enrollment percentage, portend uncertain risk characteristics, certain minimal underwriting standards could be established for such groups. Such a practice would be consistent with employer group plans currently being offerred.

Education of Potential Enrollees - Any long-term care initiative should be coupled with extensive education of potential enrollees. Awareness of the risks associated with long-term care and the role of Medicare and/or Medicaid is far from pervasive. A broad-based educational effort would potentially increase interest in the plan and thereby improve the risk pool through broader participation. Along the same lines, care should be taken to provide complete disclosure and reporting so as to minimize potential misunderstanding on the part of enrollees.

Federal Tax Consequences - There are several Federal tax issues, such as the tax treatment of long-term care premium and benefit payments. This must be clarified to allow for the full development of long-term care insurance. Group medical or health insurance will be expanded to provide comprehensive coverage for the bulk of the U.S. population only if employer groups are provided with tax exclusions for premium payments and non-taxable benefit payments. It is likely that S. 38's proposed use of converted life insurance reserves would require some tax clarifications in order to appropriately stimulate the conversion of group life/accidental death coverage to LTC benefits or indemnity long-term care benefits.

Sliding Scale to Determine Life Insurance Levels - It is likely that $2,000 as a minimum amount of life insurance will be too low. An alternative to this single limit would be to provide minimums that vary by age, providing larger amounts of life insurance for young people, grading down with age.

Available Services - Care should be taken not to extend coverage to include choremaker and companion services. It is our feeling that such services are uninsurable and that providing for them would act to disrupt the informal care system which works so well in this country. We do believe, of course, that home health aide and personal care services must be provided.

Renewability and Premium Rate Adjustments - The nature of the single premium portion of the long-term care insurance funded by life insurance conversion is unclear. Presumably this is Guaranteed Renewable and not Non-Cancellable. If this is the case, an explanation needs to be provided as to how rate increases will be accommodated.

Reinsurance - The reinsurance provision needs some clarification as the current language seems to have the possibility of leading to the same mandatory requirements associated with the FEGLI statute. Reinsurance should not be mandatory.

Insurer Qualifications - There is a need to modify limitations on acceptable providers. It is not clear whether an insurer interested in only the long-term care and not the life and accidental death risk, must meet the requirement that they have 1% of total life insurance in-force in the United States. If the dual requirements apply, we would ask for a provision that waives the life insurance requirement if a suitable reinsurer is willing to take the risk.

We are grateful for the opportunity to comment on this significant piece of legislation and look forward to providing any help we can in analyzing its key elements as well as working with you to suggest appropriate amendments.

CONGRESSIONAL BUDGET OFFICE
U.S. CONGRESS
WASHINGTON, D.C. 20515

Robert D. Reischauer
Director

November 3, 1989

Honorable David Pryor
Committee on Governmental Affairs
United States Senate
Washington, DC 20510

Dear Senator:

As you requested, the Congressional Budget Office has reviewed S. 38, Federal Employees Long-Term Care Insurance Act of 1989 as introduced in the Senate. The proposed bill would make long-term care insurance available to certain civilian federal employees. The Office of Personnel Management (OPM) would be authorized to allow such employees to convert a portion of their basic life insurance to group long-term care insurance that would be underwritten by private insurers. Eligible employees are civilians of age 50 or more who have basic life insurance and have been enrolled in the federal insurance program for at least 10 years. Those eligible employees choosing to do so would be allowed to convert a basic amount of life insurance coverage into long-term care coverage. The OPM would be authorized to define the benefit (subject to minimum coverage standards), set appropriate employee contribution rates, and choose the insurance carrier(s) assuming the risk. (Those qualified employees not wishing to convert life insurance could purchase long-term care insurance by paying the full cost of the group coverage.) The estimated net change in federal outlays due to S. 38 is shown below. CBO estimates no impact on the budgets of state and local governments.

	(by fiscal years, in millions of dollars)				
	1990	1991	1992	1993	1994
Employee Life Insurance Fund					
Federal outlays	0	11	18	23	28

The bill would have positive outlay impacts because monies that otherwise would flow (as an intrabudgetary transfer) into the government-held Federal Employees Group Life Insurance (FEGLI) fund would flow out of the Treasury to the private carrier(s) of the long-term care insurance. Government contributions, however would not increase because the government's contributions that would have gone to the life insurance fund would instead be contributed toward long-term care insurance premiums.

CBO's cost estimate of S. 38 is based on OPM's estimate of the cost of a similar proposal included in the President's Budgets both for FY 1989 and

FY 1990. OPM based its estimate on a defined benefit level and associated actuarially-based premiums, together with assumptions about the estimated number of eligibles and their participation rate. For its estimate, CBO has relied upon OPM's assumptions because the proposed bill explicitly authorizes OPM to develop and administer the program. The calculation of the outlay impact is based upon the following assumptions.

The defined indemnity benefit was assumed by OPM to be $40 per day of nursing home confinement for up to three years, or $20 per home visit if qualified for home visits, both of which are less than half of the national average costs of such services. This benefit would be offered to those meeting eligibility requirements and to their spouses. The total premium would be about $350 per year for an employee, and $415 per year for an employee's spouse. Employees would be liable for 100 percent of the premium for their spouses, and also for themselves if they chose not to convert their life insurance. Employees would have the option, however, of converting $25,000 in employees' life insurance coverage into the long-term care insurance coverage. In other words, the government's one-third share of the premium for $25,000 of life insurance (about $60 per year) and the employee's two-thirds share (about $120 per year) would be diverted to pay part of the $350 premium for long-term care insurance. The remaining $170 would be paid by the employee. The amount of the diverted premium that would be paid to private insurance carrier(s) instead of going into the government-held FEGLI fund accounts for the positive outlay impacts of this bill. The estimate assumes an effective date of January 1, 1991, and indexes both the benefit and premium for projected inflation.

Of the 650,000 employees meeting the qualification criteria, it was assumed that 15 percent would elect to convert life insurance to obtain the long-term care coverage. In the initial year, about 98,000 employees would be expected to elect coverage. CBO projects that the growth in the number of employees electing coverage would be 20,000 per year.

Using the above cost and participation assumptions, the employee contributions diverted from life insurance premiums (for $25,000 in coverage) to long-term care insurance premiums would amount to $6 million in calendar year 1991, the first year the program would be operational, and government contributions diverted similarly would amount to $12 million. Decreased outlays for death benefit payouts would offset these increased outlays for long-term care premiums. Liability for FEGLI death benefits would be reduced by about $4 million per year because of reduced life insurance payments resulting from those converting $25,000 of life insurance coverage to long-term care coverage. The estimated fiscal year 1991 net outlay impact represents three quarters of the calendar year estimate.

If this bill becomes law, benefits and costs of the long-term care insurance coverage actually offered by OPM could differ from the above. If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Alan Fairbank (226-2820).

Sincerely,

Robert D. Reischauer
Director

cc: Honorable John Glenn
Chairman
Committee on Governmental Affairs

Honorable William V. Roth, Jr.
Ranking Minority Member

TESTIMONY
OF THE
NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS
ON
S.38
FEDERAL EMPLOYEES LONG-TERM CARE INSURANCE ACT OF 1989

Before The

SUBCOMMITTEE ON FEDERAL SERVICES, POST OFFICE
AND CIVIL SERVICE

U.S. SENATE

November 2, 1989

Earl R. Pomeroy
NAIC Vice President

INTRODUCTION

As Vice President of the National Association of Insurance Commissioners (NAIC) and Insurance Commissioner of the State of North Dakota, thank you for inviting the NAIC to comment on S.38. The NAIC is a non-profit association consisting of the 50 insurance commissioners from the states, the District of Columbia and the territories of the United States.

Although the NAIC expresses no position on S.38, we offer some comments that may be useful in analyzing any approach which offers long-term care insurance to individuals. These comments are preceded as you specifically requested, by a discussion of the NAIC's regulatory framework for long-term care policies.

DEVELOPMENT OF THE MODEL ACT AND REGULATION

Long-term care insurance has developed rapidly as a significant insurance coverage marketed primarily to senior citizens for the purpose of covering the cost of long-term care for chronic health conditions. The number of companies offering this coverage and the variety of policies available has increased dramatically in the last few years. There are now over 100 companies offering long-term care insurance. The growth of this particular insurance marketplace is viewed by regulators as a positive development for a number of reasons.

First, there is a great deal of consumer interest in having a high quality nursing home insurance product available. Consumers are otherwise faced with depleting their assets to cover long-term care cots. Undoubtedly, these individuals would prefer to protect themselves and their assets through the purchase of a long-term care policy.

Second, it is believed that the demand for long-term care products would be stronger if consumers were fully informed about their exposure for long-term care costs--costs which are often thought to be covered by Medicare or other sources.

Third, there is a substantial government budgetary interest in long-term care insurance. It is my understanding that federal and state governments finance over 40 percent of all nursing home expenditures through the Medicaid program. Faced with demographic projections of an aging population, there is a vital public urgency in injecting additional amounts of private dollars into the present financing picture.

These strong consumer and public interests favoring increased availability are accompanied by a recognition by state insurance commissioners that certain protections must be afforded the consumer, particularly in the initial development stages of the product. These interests led the NAIC to focus its attention on developing a model act and subsequently a regulation, both designed to:

> ... promote the public interest, to promote the availability of long-term care insurance policies, to protect applicants for long-term care insurance ... from unfair or deceptive enrollment practices, to establish standards for long-term care insurance, to facilitate public understanding and comparison of long-term care insurance policies, and to facilitate flexibility and innovation in the development of long-term care insurance coverage. Long-Term Care Insurance Model Act, Model Laws, Regulations and Guidelines, Vol. I, No. 132.

The NAIC Long-Term Care Insurance Model Act (now adopted in 34 states and pending in 3 states) and the Model Regulation (adopted in 12 states and pending in 9 states) afford certain protections to the consumer:

1. No product may be marketed or advertised as long-term care insurance or nursing home insurance unless it meets the requirements of the model.

2. Policies may not be individually cancelled due to advancing age of the insured and may only be cancelled as a class with the commissioner's approval (upon a showing that the book of business threatens dire economic consequences to the company and the losses cannot be stabilized).

3. Coverage for preexisting conditions of the insured may only be limited to a period of six months from the inception date of the policy.

4. The insured may return the policy for a full refund within the first 30 days after the policy has been delivered (by an agent), or solicited directly (through direct mail or television ads).

5. Long-term care insurance policies may not exclude coverage for Alzheimer's disease.

6. Long-term care policies may not limit coverage to skilled nursing care nor provide significantly more coverage for skilled care in a facility than coverage for lower levels of care.

7. Loss ratios must be at least 60 percent.

Significant consumer protection provisions were added to the models in 1988:

1. The conditioning of any long-term care benefit on a prior hospital stay is prohibited.

2. Products marketed as "home health care" or "home care" cannot condition receipt of benefits on a prior hospitalization requirement.

3. Conditioning eligibility for benefits provided in an institutional care setting on the receipt of a higher level of institutional care ("step-down") is prohibited.

4. A detailed outline of coverage must be delivered to all prospective applicants for long-term care insurance at the time of initial solicitation.

5. Group long-term care insurance must provide for continuation or conversion of coverage.

Amendments made in June 1989 include:

1. Authorization for life insurance products to offer riders or a stand-alone product containing long-term care benefit.

2. Reserve requirements for life products containing long-term care benefits.

These revisions reflect input which the NAIC and the states solicited from consumer organizations and members of the insurance industry.

CURRENT NAIC ACTIVITY

The NAIC is closely monitoring the long-term care insurance marketplace. As a result, the NAIC has revised its models annually to reflect changes in this developing marketplace. At the present time the NAIC is continuing its dialogue with the industry and consumer representatives of seniors and has recently held discussions with various researchers in the long-term care insurance field concerning the average length of nursing home stays and the ability or inability of individuals to afford long-term care coverage.

Other significant mechanisms which we believe will further protect the senior citizens of this country are currently on the NAIC agenda:

1. Prohibit the practice of "post-claims" underwriting;
2. Develop a proposal on inflation protection;
3. Develop a regulatory framework and disclosure form for residential facilities providing personal care and

health care services (including long-term care) to people of retirement age (these facilities are referred to as continuing care retirement communities (CCRCs));

4. Examine the propriety of returning cash to consumers who have paid long-term care premiums but who have not collected benefits after a period of time (nonforfeiture benefits);

5. Prepare a consumer guide for long-term care insurance;

6. Develop a reporting form for loss ratio experience; and

7. Develop specific protections for consumers purchasing home health care benefits.

CONSUMER PROTECTION CONSIDERATIONS

The goal of any approach which provides long-term care insurance is to assure that the consumer is adequately protected with benefits that conform to minimum standards. The minimum standards developed by the NAIC provide these safeguards. The standards were designed to assist the states in governing the rapidly evolving market and they continue to be revised to address new concerns.

Built into these standards are certain minimum disclosure requirements which assure consumers that they are adequately informed about the products being offered. It is therefore extremely important that the employees under this proposal understand what options are available to them, whether the options will meet their needs and what the options will cost.

Finally, there should be adequate financial safeguards in place to govern the stability of any long-term care product.

CONCLUSION

Any proposal designed to provide long-term care insurance coverage should meet minimum disclosure, benefit and financial standards. The NAIC regulatory framework for long-term care insurance has been carefully developed to govern the private marketplace and continues to be revised to strengthen protections for the consumer.

If you have any questions about the NAIC's regulatory structure, I would be more than happy to answer them.

legal\testimon\fedemplt

NAIC

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816-842-3600

National
Association
of Insurance
Commissioners

November 27, 1989

Senator David Pryor
United States Senate
Committee on Governmental Affairs
Washington, D.C. 20510

Dear Senator Pryor:

Re: Answers to Questions on Long-Term Care Insurance by Senator Pete Wilson

This letter is in response to Senator Pete Wilson's inquiries about the regulation of long-term care insurance.

a. **Some advocate establishing minimum standards of coverage for LTC products. Do you see the NAIC model moving in that direction? If not, why not?**

The NAIC has prepared what it believes to be minimum consumer protections for the purchase of long-term care insurance. These protections are suggested for implementation by the states. As we stated in our written submission to the Subcommittee on Federal Services, Post Office, and Civil Service on the Federal Employees Long-Term Care Insurance Act of 1989, over two-thirds of the states have adopted either the NAIC's model statute and/or regulation.

b. **Can you tell us how NAIC regulations are enforced? What penalties are imposed on insurers found in violation and on state governments found not enforcing the law?**

The NAIC has no enforcement authority over its recommendations. The recommendations are just that--suggestions which have been endorsed by the NAIC's member states. Therefore, there are no penalties assessed by the NAIC on either the states or the insurers.

Once a state implements the NAIC's recommendations, it has a statutory responsibility to carry out the laws and regulations. States have the ability to fine a company, suspend or revoke a company's certificate of authority or revoke approval of the company's rate or form filings, depending on the violation.

c. **What is the status of the NAIC model law/regulation on a state-by-state basis?**

Attached is a memo indicating the total number of states which have adopted the NAIC's Model Act and Regulation, along with the number of states which are in the process of adopting them. Also attached is a state-by-state list of action and a citation to each provision.

The NAIC appreciates the opportunity to add these comments to your hearing record. If you should need further information, please do not hesitate to contact me.

Sincerely,

Earl R. Pomeroy
ND Commissioner of Insurance
and NAIC Vice President

Attachments

NAIC

120 West 12th Street
Suite 1100
Kansas City, Missouri 64105
816-842-3600

*National
Association
of Insurance
Commissioners*

DATE: November 15, 1989

TO: Earl R. Pomeroy

FROM: Carole Olson

RE: State Action on Adopting NAIC Long-Term Care Models

Attached are the state pages to the NAIC Long-Term Care Insurance Model Act and Regulation. Thirty-four states have adopted the model act. It is pending in three states, and eleven states have adopted legislation which is "similar" to the NAIC model. Twelve states have adopted the model regulation. It is pending in nine states, and six states have adopted a regulation which is "similar" to the NAIC model.

Attachment

j\cjo\memos\ltcmod

LONG-TERM CARE INSURANCE MODEL ACT

NAIC MEMBER	MODEL/SIMILAR LEGIS.	RELATED LEGIS./REGS.
Indiana	IND. CODE §§ 27-8-12-1 to 27-8-12-16 (1987).	*See also* IND. CODE §§ 12-1-25-1 to 12-1-25-9 (1987).
Iowa	IOWA CODE §§ 514G.1 to 514G.8 (1987).	
Kansas	KAN. STAT. ANN §§ 40-2225 to 2228 (1988/1989).	
Kentucky		KY. REV. STAT. §§ 304.17-314 (1987).
Louisiana	LA. REV. STAT. ANN §§ 22:1731 to 22:1737 (1989).	
Maine		ME. REV. STAT. ANN. tit. 24-A §§ 5051 TO 5053 (1986) (Authorizes commissioner to develop regulations).
Maryland	MD. ANN. CODE art. 48A §§ 642 to 649 (1989) (Part of model; authority to adopt regulation).	MD. ANN. CODE art. 48A §§ 401A (1986) (Life insurance riders).
Massachusetts	NO ACTION TO DATE	
Michigan		Several bills adopted, pending (1989).
Minnesota		MINN. STAT. §§ 62A.46 to 62A.56 (1986/1989).
Mississippi	NO ACTION TO DATE	
Missouri	NO ACTION TO DATE	
Montana	SB 298 (1989).	
Nebraska	NEB. REV. STAT. §§ 44-4501 to 44-4517 (1987/1989).	

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Section 9. Effective Date

This Act shall be effective [insert date].

Legislative History (all references are to the Proceedings of the NAIC).

1987 Proc. I 11, 19, 655, 677-680, 700 (adopted).
1987 Proc. II 15, 23, 632-633, 727, 730-734 (amended and reprinted).
1988 Proc. I 9, 20-21, 629-630, 652, 661-665 (amended and reprinted).
1989 Proc. I 9, 24-25, 703, 754-755, 789-793 (amended).
1989 Proc. II (amended and reprinted).

LONG-TERM CARE INSURANCE MODEL ACT

The date in parentheses is the effective date of the legislation or regulation, with latest amendments.

NAIC MEMBER	MODEL/SIMILAR LEGIS.	RELATED LEGIS./REGS.
Alabama	NO ACTION TO DATE	
Alaska	NO ACTION TO DATE	
Arizona	ARIZ. REV. STAT. ANN. §§ 20-1691 to 20-1691.6 (1987/1989).	
Arkansas	SB 491 (1989).	
California	CAL. INS. CODE § 10230 to 10232.8 (1988).	
Colorado		COLO. REV. STAT. §§ 10-19-101 to 10-19-104 (1986/1989); COLO. ADMIN. INS. REG. 86-5 (1986).
Connecticut		CONN. GEN. STAT. § 38-174x (1989) (Commissioner shall develop regulations).
Delaware	NO ACTION TO DATE	
D.C.	NO ACTION TO DATE	
Florida	FLA. STAT. §§ 627.9401 to 627.9408 (1988/1989).	See also BULL. 88-224 (1988).
Georgia	GA. CODE ANN. §§ 33-42-1 33-42-7 (1988/1989).	
Guam	NO ACTION TO DATE	
Hawaii	SB 55 (1989).	
Idaho	IDAHO CODE §§ 41-4601 to 41-4606 (1988).	
Illinois	ILL. REV. STAT. ch. I.C. §§ 351A-1 to 351A-11 (1989).	

the time of policy delivery. In addition to complying with all applicable requirements, the summary shall also include:

(1) An explanation of how the long-term care benefit interacts with other components of the policy, including deductions from death benefits;

(2) An illustration of the amount of benefits, the length of benefit, and the guaranteed lifetime benefits if any, for each covered person;

(3) Any exclusions, reductions and limitations on benefits of long-term care; and

(4) If applicable to the policy type, the summary shall also include:

  (a) A disclosure of the effects of exercising other rights under the policy;

  (b) A disclosure of guarantees related to long-term care costs of insurance charges, and

  (c) Current and projected maximum lifetime benefits.

J. Any time a long-term care benefit, funded through a life insurance vehicle by the acceleration of the death benefit, is in benefit payment status, a monthly report shall be provided to the policyholder. Such report shall include:

(1) Any long-term care benefits paid out during the month;

(2) An explanation of any changes in the policy, e.g. death benefits or cash values, due to long-term care benefits being paid out; and

(3) The amount of long-term care benefits existing or remaining.

K. Any policy or rider advertised, marketed or offered as long-term care or nursing home insurance shall comply with the provisions of this Act.

Section 7. Administrative Procedures

Regulations adopted pursuant to this Act shall be in accordance with the provisions of [cite section of state insurance code relating to the adoption and promulgation of rules and regulations or cite the state's administrative procedures act, if applicable].

Section 8. Severability

If any provision of this Act or the application thereof to any person or circumstance is for any reason held to be invalid, the remainder of the Act and the application of such provision to other persons or circumstances shall not be affected thereby.

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a policy issued to a group defined Section 4(E)1 of this Act, the applicant is not satisfied for any reason.

G. (1) An outline of coverage shall be delivered to a prospective applicant for long-term care insurance at the time of initial solicitation through means which prominently direct the attention of the recipient to the document and its purpose.

(a) The Commissioner shall prescribe a standard format, including style, arrangement and overall appearance, and the content of an outline of coverage.

(b) In the case of agent solicitations, an agent must deliver the outline of coverage prior to the presentation of an application or enrollment form.

(c) In the case of direct response solicitations, the outline of coverage must be presented in conjunction with any application or enrollment form.

(2) The outline of coverage shall include:

(a) A description of the principal benefits and coverage provided in the policy;

(b) A statement of the principal exclusions, reductions, and limitations contained in the policy;

(c) A statement of the terms under which the policy or certificate, or both, may be continued in force or discontinued, including any reservation in the policy of a right to change premium. Continuation or conversion provisions of group coverage shall be specifically described;

(d) A statement that the outline of coverage is a summary only, not a contract of insurance, and that the policy or group master policy contain governing contractual provisions;

(e) A description of the terms under which the policy or certificate may be returned and premium refunded; and

(f) A brief description of the relationship of cost of care and benefits.

H. A certificate issued pursuant to a group long-term care insurance policy which policy is delivered or issued for delivery in this state shall include:

(1) A description of the principal benefits and coverage provided in the policy;

(2) A statement of the principal exclusions, reductions and limitations contained in the policy; and

(3) A statement that the group master policy determines governing contractual provisions.

Comment: The above provisions are deemed appropriate due to the particular nature of long-term care insurance, and are consistent with group insurance laws. Specific standards would be contained in regulations implementing this Act.

I. At the time of policy delivery, a policy summary shall be delivered for an individual life insurance policy which provides long-term care benefits within the policy or by rider. In the case of direct response solicitations, the insurer shall deliver the policy summary upon the applicant's request, but regardless of request shall make such delivery no later than at

D. Prior hospitalization/institutionalization:

(1) No long-term care insurance policy may be delivered or issued for delivery in this state if such policy:

(a) Conditions eligibility for any benefits on a prior hospitalization requirement; or

(b) Conditions eligibility for benefits provided in an institutional care setting on the receipt of a higher level of institutional care.

(2) A long-term care insurance policy containing any limitations or conditions for eligibility other than those prohibited above in Paragraph (1) shall clearly label in a separate paragraph of the policy or certificate entitled "Limitations or Conditions on Eligibility for Benefits" such limitations or conditions, including any required number of days of confinement.

(a) A long-term care insurance policy containing a benefit advertised, marketed or offered as a home health care or home care benefit may not condition receipt of benefits on a prior institutionalization requirement.

(b) A long-term care insurance policy which conditions eligibility of non-institutional benefits on the prior receipt of institutional care shall not require a prior institutional stay of more than thirty (30) days for which benefits are paid.

Drafting Note: The amendment to the section is primarily intended to require immediate and clear disclosure where a long-term care insurance policy conditions eligibility for non-institutional benefits on prior receipt of institutional care.

(3) No long-term care insurance policy which provides benefits only following institutionalization shall condition such benefits upon admission to a facility for the same or related conditions within a period of less than thirty days after discharge from the institution.

Drafting Note: The amendment to this section will eliminate the three-day prior hospitalization screen for new long-term care insurance policies. Some states may wish to consider a "dual-option" alternative to the total prohibition against the prior hospitalization screen, based on the state's particular demographic, geographic and market characteristics. If so, the following provision is such an alternative: "No long-term care insurance policy which conditions the eligibility of benefits on prior hospitalization may be delivered or issued for delivery in this State unless the insurer or other entity offering that policy also offers a long-term care insurance policy which does not condition eligibility of benefits on such a requirement."

Editors Note: Section 6D(3) is language from the original model act which did not prohibit prior institutionalization. The drafters intended that Section 6D(3) would be eliminated after adoption of the amendments to this section which prohibit prior institutionalization. States should examine their Section 6 carefully during the process of adoption or amendment of this Act.

E. The Commissioner may adopt regulations establishing loss ratio standards for long-term care insurance policies provided that a specific reference to long-term care insurance policies is contained in the regulation.

F. Right to return - free look:

Long-term care insurance applicants shall have the right to return the policy or certificate within thirty days of its delivery and to have the premium refunded if, after examination of the policy or certificate, the applicant is not satisfied for any reason. Long-term care insurance policies and certificates shall have a notice prominently printed on the first page or attached thereto stating in substance that the applicant shall have the right to return the policy or certificate within thirty days of its delivery and to have the premium refunded if, after examination of the policy or certificate, other than a certificate issued pursuant to

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non-duplication of coverage provisions, coverage of dependents, preexisting conditions, termination of insurance, continuation or conversion, probationary periods, limitations, exceptions, reductions, elimination periods, requirements for replacement, recurrent conditions and definitions of terms.

Comment: This subsection permits the adoption of regulations establishing disclosure standards, renewability and eligibility terms and conditions, and other performance requirements for long-term care insurance. Regulations under this subsection should recognize the developing and unique nature of long-term care insurance and the distinction between group and individual long-term care insurance policies.

B. No long-term care insurance policy may:

(1) Be cancelled, nonrenewed or otherwise terminated on the grounds of the age or the deterioration of the mental or physical health of the insured individual or certificate holder; or

(2) Contain a provision establishing a new waiting period in the event existing coverage is converted to or replaced by a new or other form within the same company, except with respect to an increase in benefits voluntarily selected by the insured individual or group policyholder; or

(3) Provide coverage for skilled nursing care only or provide significantly more coverage for skilled care in a facility than coverage for lower levels of care.

C. Preexisting condition:

(1) No long-term care insurance policy or certificate other than a policy or certificate thereunder issued to a group as defined in Section 4E(1) shall use a definition of "preexisting condition" which is more restrictive than the following: Preexisting condition means a condition for which medical advice or treatment was recommended by, or received from a provider of health care services, within six months preceding the effective date of coverage of an insured person.

(2) No long-term care insurance policy or certificate other than a policy or certificate thereunder issued to a group as defined in Section 4E(1) may exclude coverage for a loss or confinement which is the result of a preexisting condition unless such loss or confinement begins within six months following the effective date of coverage of an insured person.

(3) The Commissioner may extend the limitation periods set forth in Sections 6C(1) and (2) above as to specific age group categories in specific policy forms upon findings that the extension is in the best interest of the public.

(4) The definition of "preexisting condition" does not prohibit an insurer from using an application form designed to elicit the complete health history of an applicant, and, on the basis of the answers on that application, from underwriting in accordance with that insurer's established underwriting standards. Unless otherwise provided in the policy or certificate, a preexisting condition, regardless of whether it is disclosed on the application, need not be covered until the waiting period described in Section 6C(2) expires. No long-term care insurance policy or certificate may exclude or use waivers or riders of any kind to exclude, limit or reduce coverage or benefits for specifically named or described preexisting diseases or physical conditions beyond the waiting period described in Section 6C(2).

(b) Except for credit unions, the association or associations collect dues or solicit contributions from members; and

(c) The members have voting privileges and representation on the governing board and committees.

Thirty days after such filing the association or associations will be deemed to satisfy such organizational requirements, unless the Commissioner makes a finding that the association or associations do not satisfy those organizational requirements.

(4) A group other than as described in Subsections E(1), E(2) and E(3), subject to a finding by the Commissioner that:

(a) The issuance of the group policy is not contrary to the best interest of the public;

(b) The issuance of the group policy would result in economies of acquisition or administration; and

(c) The benefits are reasonable in relation to the premiums charged.

F. "Policy" means, for the purposes of this Act, any policy, contract, subscriber agreement, rider or endorsement delivered or issued for delivery in this state by an insurer; fraternal benefit society; nonprofit health, hospital, or medical service corporation; prepaid health plan; health maintenance organization or any similar organization.

Drafting Note: This Act is intended to apply to the specified group and individual policies, contracts, and certificates whether issued by insurers; fraternal benefit societies; non-profit health, hospital, and medical service corporations; prepaid health plans; health maintenance organizations or any similar organization. In order to include such organizations, each state should identify them in accordance with its statutory terminology or by specific statutory citation. Depending upon state law, insurance department jurisdiction and other factors, separate legislation may be required. In any event, the legislation should provide that the particular terminology used by these plans and organizations may be substituted for, or added to, the corresponding terms used in this Act. The term "regulations" should be replaced by the terms "rules and regulations" or "rules" as may be appropriate under state law.

The definition of "long-term care insurance" under this Act is designed to allow maximum flexibility in benefit scope, intensity and level, while assuring that the purchaser's reasonable expectations for a long-term care insurance policy are met. The Act is intended to permit long-term care insurance policies to cover either diagnostic, preventive, therapeutic, rehabilitative, maintenance or personal care services, or any combination thereof, and not to mandate coverage for each of these types of services. Pursuant to the definition, long-term care insurance may be either a group or individual insurance policy or a rider to such a policy, e.g., life or accident and sickness. The language in the definition concerning "other than an acute care unit of a hospital" is intended to allow payment of benefits when a portion of a hospital has been designated for, and duly licensed or certified as a long-term care provider or swing bed.

Section 5. Extraterritorial Jurisdiction — Group Long-Term Care Insurance

No group long-term care insurance coverage may be offered to a resident of this state under a group policy issued in another state to a group described in Section 4E(4), unless this state or another state having statutory and regulatory long-term care insurance requirements substantially similar to those adopted in this state has made a determination that such requirements have been met.

Drafting Note: By limiting extraterritorial jurisdiction to "discretionary groups," it is not the drafters' intention that jurisdiction over other health policies should be limited in this manner.

Section 6. Disclosure and Performance Standards for Long-Term Care Insurance

A. The Commissioner may adopt regulations that include standards for full and fair disclosure setting forth the manner, content and required disclosures for the sale of long-term care insurance policies, terms of renewability, initial and subsequent conditions of eligibility, or riders which provide directly or which supplement long-term care insurance. Long-term care insurance may be issued by insurers; fraternal benefit societies; nonprofit health, hospital, and medical service corporations; prepaid health plans; health maintenance organizations or any similar organization to the extent they are otherwise authorized to issue life or health insurance. Long-term care insurance shall not include any insurance policy which is offered primarily to provide basic Medicare supplement coverage, basic hospital expense coverage, basic medical-surgical expense coverage, hospital confinement indemnity coverage, major medical expense coverage, disability income protection coverage, accident only coverage, specified disease or specified accident coverage, or limited benefit health coverage.

B. "Applicant" means:

(1) In the case of an individual long-term care insurance policy, the person who seeks to contract for benefits, and

(2) In the case of a group long-term care insurance policy, the proposed certificate holder.

C. "Certificate" means, for the purposes of this Act, any certificate issued under a group long-term care insurance policy, which policy has been delivered or issued for delivery in this state.

D. "Commissioner" means the insurance commissioner of this state.

Drafting Note: Where the word "Commissioner" appears in this Act, the appropriate designation for the chief insurance supervisory official of the state should be substituted.

E. "Group long-term care insurance" means a long-term care insurance policy which is delivered or issued for delivery in this state and issued to:

(1) One or more employers or labor organizations, or to a trust or to the trustees of a fund established by one or more employers or labor organizations, or a combination thereof, for employees or former employees or a combination thereof or for members or former members or a combination thereof, of the labor organizations; or

(2) Any professional, trade or occupational association for its members or former or retired members, or combination thereof, if such association:

(a) Is composed of individuals all of whom are or were actively engaged in the same profession, trade or occupation; and

(b) Has been maintained in good faith for purposes other than obtaining insurance; or

(3) An association or a trust or the trustee(s) of a fund established, created or maintained for the benefit of members of one or more associations. Prior to advertising, marketing or offering such policy within this state, the association or associations, or the insurer of the association or associations, shall file evidence with the Commissioner that the association or associations have at the outset a minimum of 100 persons and have been organized and maintained in good faith for purposes other than that of obtaining insurance; have been in active existence for at least one year; and have a constitution and by-laws which provide that:

(a) The association or associations hold regular meetings not less than annually to further purposes of the members;

LONG-TERM CARE INSURANCE MODEL ACT

Table of Contents

Section 1. Purpose
Section 2. Scope
Section 3. Short Title
Section 4. Definitions
Section 5. Extraterritorial Jurisdiction - Group Long-Term Care Insurance
Section 6. Disclosure and Performance Standards for Long-Term Care Insurance
Section 7. Administrative Procedures
Section 8. Severability
Section 9. Effective Date

Section 1. Purpose

The purpose of this Act is to promote the public interest, to promote the availability of long-term care insurance policies, to protect applicants for long-term care insurance, as defined, from unfair or deceptive sales or enrollment practices, to establish standards for long-term care insurance, to facilitate public understanding and comparison of long-term care insurance policies, and to facilitate flexibility and innovation in the development of long-term care insurance coverage.

Comment: The purpose clause evidences legislative intent to protect the public while recognizing the need to permit flexibility and innovation with respect to long-term care insurance coverage.

Comment: The Task Force recognizes the viability of a long-term care product funded through a life insurance vehicle, and this Act is not intended to prohibit approval of this product. Section 4 now specifically addresses this product. However, states must examine their existing statutes to determine whether amendments to other code sections such as the definition of life insurance and accident and health reserve standards and further revisions are necessary to authorize approval of the product.

Section 2. Scope

The requirements of this Act shall apply to policies delivered or issued for delivery in this state on or after the effective date of this Act. This Act is not intended to supersede the obligations of entities subject to this Act to comply with the substance of other applicable insurance laws insofar as they do not conflict with this Act, except that laws and regulations designed and intended to apply to Medicare supplement insurance policies shall not be applied to long-term care insurance.

Note: See Section 6I.

Comment: This section makes clear that entities subject to the Act must continue to comply with other applicable insurance legislation not in conflict with this Act.

Section 3. Short Title

This Act may be known and cited as the "Long-Term Care Insurance Act."

Section 4. Definitions

Unless the context requires otherwise, the definitions in this section apply throughout this Act.

A. "Long-term care insurance" means any insurance policy or rider advertised, marketed, offered or designed to provide coverage for not less than twelve consecutive months for each covered person on an expense incurred, indemnity, prepaid or other basis; for one or more necessary or medically necessary diagnostic, preventive, therapeutic, rehabilitative, maintenance or personal care services, provided in a setting other than an acute care unit of a hospital. Such term includes group and individual annuities and life insurance policies

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LONG-TERM CARE INSURANCE MODEL ACT

NAIC MEMBER	MODEL/SIMILAR LEGIS.	RELATED LEGIS./REGS.
Nevada	NEV. ADMIN. CODE § 687B.__ to 687B.__ (1988).	
New Hampshire	N.H. REV. STAT. ANN §§ 415-D:1 to 415-D:11 (1989) (Eff. 1-1-90).	
New Jersey	N.J. ADMIN. CODE §§ 11:3-34.1 to 11:3-34.13 pending (1989) (Includes parts of model law and regulation).	
New Mexico	SB 90 (1989).	
New York		N.Y. INS. LAW § 1117 (1986).
North Carolina	N.C. GEN. STAT. §§ 58-540 to 58-546 (1987/1989).	
North Dakota	N.D. CENT. CODE §§ 26.1-45-01 to 26.1-45-10 (1987/1989).	
Ohio	OHIO REV. CODE ANN. §§ to 3923.41 to 3923.48 (1988).	
Oklahoma	OKLA. STAT. tit. 36 §§ 4421 to 4427 (1987/1989).	
Oregon		OR. REV. STAT. § 743.138 (1987).
Pennsylvania	NO ACTION TO DATE	
Puerto Rico	NO ACTION TO DATE	
Rhode Island	R.I. GEN. LAW §§ 27-34.2-1 to 27-34.2-12 (1988) (Model plus extra provisions).	
South Carolina	S.C. CODE ANN. §§ 38-72-10 to 38-72-100 (1988).	

LONG-TERM CARE INSURANCE MODEL ACT

NAIC MEMBER	MODEL/SIMILAR LEGIS.	RELATED LEGIS./REGS.
South Dakota	SB 43 (1989).	
Tennessee	TENN. CODE ANN. §§ 56-42-101 to 56-42-106 (1988).	-
Texas		TEX. INS. CODE ANN. art. 3.70-1(F)(5) (1987) (Authorizes commissioner to develop regulations).
Utah	NO ACTION TO DATE	
Vermont	VT. STAT. ANN. tit. 8 §§ 8051 to 8063 (1989).	
Virgin Islands	NO ACTION TO DATE	
Virginia	VA. CODE §§ 38.2-5200 to 38.2-5208 (1987).	
Washington		WASH. REV. CODE ANN. §§ 48.84.010 to 48.84.910 (1988).
West Virginia	W. VA. CODE §§ 33-15A-1 to 33-15A-7 (1989).	
Wisconsin	Model pending (1989).	WIS. STAT § 146.91 (1987).
Wyoming	WYO. STAT. §§ 26-38-101 to 26-38-106 (1988).	

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LONG-TERM CARE INSURANCE MODEL REGULATION

Table of Contents

Section 1. Purpose
Section 2. Authority
Section 3. Applicability and Scope
Section 4. Definitions
Section 5. Policy Definitions
Section 6. Policy Practices and Provisions
Section 7. Required Disclosure Provisions
Section 8. Requirements for Replacement
Section 9. Discretionary Powers of Commissioner
Section 10. Reserve Standards
Section 11. Loss Ratio
Section 12. Filing Requirement
Section 13. Standard Format Outline of Coverage

Section 1. Purpose

The purpose of this regulation is to implement [cite section of law which sets forth the NAIC Long-Term Care Insurance Model Act], to promote the public interest, to promote the availability of long-term care insurance coverage, to protect applicants for long-term care insurance, as defined, from unfair or deceptive sales or enrollment practices, to facilitate public understanding and comparison of long-term care insurance coverages, and to facilitate flexibility and innovation in the development of long-term care insurance.

Section 2. Authority

This regulation is issued pursuant to the authority vested in the Commissioner under [cite sections of law enacting the NAIC Long-Term Care Insurance Model Act and establishing the Commissioner's authority to issue regulations].

Section 3. Applicability and Scope

Except as otherwise specifically provided, this regulation applies to all long-term care insurance policies delivered or issued for delivery in this state on or after the effective date hereof, by insurers; fraternal benefit societies; nonprofit health, hospital and medical service corporations; prepaid health plans; health maintenance organizations and all similar organizations.

Drafting Note: This regulation, like the NAIC Long-Term Care Insurance Model Act, is intended to apply to policies, contracts, subscriber agreements, riders and endorsements whether issued by insurers; fraternal benefit societies; nonprofit health, hospital and medical service corporations; prepaid health plans; health maintenance organizations and all similar organizations. In order to include such organizations, regulations should identify them in accordance with statutory terminology or by specific statutory citation. Depending upon state law and regulation, insurance department jurisdiction, and other factors, separate regulations may be required. In any event, the regulation should provide that the particular terminology used by these plans, organizations and arrangements (e.g., contract, policy, certificate, subscriber, member) may be substituted for, or added to, the corresponding terms used in this regulation.

Section 4. Definitions

For the purpose of this regulation, the terms "long-term care insurance," "group long-term care insurance," "commissioner," "applicant," "policy" and "certificate" shall have the meanings set forth in Section 4 of the NAIC Long-Term Care Insurance Model Act.

Drafting Note: Where the word "Commissioner" appears in this regulation, the appropriate designation for the chief insurance supervisory official of the state should be substituted. To the extent that the model act is not adopted, the full definition of the above terms contained in that model act should be incorporated into this section.

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Section 5. Policy Definitions

No long-term care insurance policy delivered or issued for delivery in this state shall use the terms set forth below, unless the terms are defined in the policy and the definitions satisfy the following requirements:

A. "Medicare" shall be defined as "The Health Insurance for the Aged Act, Title XVIII of the Social Security Amendments of 1965 as Then Constituted or Later Amended," or "Title I, Part I of Public Law 89-97, as Enacted by the Eighty-Ninth Congress of the United States of America and popularly known as the Health Insurance for the Aged Act, as then constituted and any later amendments or substitutes thereof," or words of similar import.

B. "Mental or nervous disorder" shall not be defined to include more than neurosis, psychoneurosis, psychopathy, psychosis, or mental or emotional disease or disorder.

C. "Skilled nursing care," "intermediate care," "personal care," "home care," and other services shall be defined in relation to the level of skill required, the nature of the care and the setting in which care must be delivered.

D. All providers of services, including but not limited to "skilled nursing facility," "extended care facility," "intermediate care facility," "convalescent nursing home," "personal care facility," and "home care agency" shall be defined in relation to the services and facilities required to be available and the licensure or degree status of those providing or supervising the services. The definition may require that the provider be appropriately licensed or certified.

Drafting Note: State laws relating to nursing and other facilities and agencies are not uniform. Accordingly, specific reference to or incorporation of the individual state law may be required in structuring each definition.

Comment: This section is intended to specify required definitional elements of several terms commonly found in long-term care insurance policies, while allowing some flexibility in the definitions themselves.

Section 6. Policy Practices and Provisions

A. Renewability. The terms "guaranteed renewable" and "noncancellable" shall not be used in any individual long-term care insurance policy without further explanatory language in accordance with the disclosure requirements of Section 7 of this regulation.

  (1) No such policy issued to an individual shall contain renewal provisions less favorable to the insured than "guaranteed renewable." However, the Commissioner may authorize nonrenewal on a statewide basis, on terms and conditions deemed necessary by the Commissioner, to best protect the interests of the insureds, if the insurer demonstrates:

    (a) That renewal will jeopardize the insurer's solvency; or

    (b) That:

      (i) The actual paid claims and expenses have substantially exceeded the premium and investment income associated with the policies; and

      (ii) The policies will continue to experience substantial and unexpected losses over their lifetime; and

      (iii)The projected loss experience of the policies cannot be significantly improved or mitigated through reasonable rate adjustments or other reasonable methods; and

(iv) The insurer has made repeated and good faith attempts to stabilize loss experience of the policies, including the timely filing for rate adjustments.

(2) The term "guaranteed renewable" may be used only when the insured has the right to continue the long-term care insurance in force by the timely payment of premiums and when the insurer has no unilateral right to make any change in any provision of the policy or rider while the insurance is in force, and cannot decline to renew, except that rates may be revised by the insurer on a class basis.

(3) The term "noncancellable" may be used only when the insured has the right to continue the long-term care insurance in force by the timely payment of premiums during which period the insurer has no right to unilaterally make any change in any provision of the insurance or in the premium rate.

B. Limitations and Exclusions. No policy may be delivered or issued for delivery in this state as long-term care insurance if such policy limits or excludes coverage by type of illness, treatment, medical condition or accident, except as follows:

(1) Preexisting conditions or diseases;

(2) Mental or nervous disorders; however, this shall not permit exclusion or limitation of benefits on the basis of Alzheimer's Disease;

(3) Alcoholism and drug addiction;

(4) Illness, treatment or medical condition arising out of:

(a) War or act of war (whether declared or undeclared);

(b) Participation in a felony, riot or insurrection;

(c) Service in the armed forces or units auxiliary thereto;

(d) Suicide (sane or insane), attempted suicide or intentionally self-inflicted injury; or

(e) Aviation (this exclusion applies only to non-fare-paying passengers).

(5) Treatment provided in a government facility (unless otherwise required by law), services for which benefits are available under Medicare or other governmental program (except Medicaid), any state or federal workers' compensation, employer's liability or occupational disease law, or any motor vehicle no-fault law, services provided by a member of the covered person's immediate family and services for which no charge is normally made in the absence of insurance.

(6) This Subsection B is not intended to prohibit exclusions and limitations by type of provider or territorial limitations.

Drafting Note: Paragraph (6) is intended to permit (a) exclusions and limitations for payment for services provided outside the United States and (b) legitimate variations in benefit levels to reflect differences in provider rates.

C. Extension of Benefits. Termination of long-term care insurance shall be without prejudice to any benefits payable for institutionalization if such institutionalization began while the long-term care insurance was in force and continues without interruption after termination. Such extension of benefits beyond the period the long-term care insurance was in force may be limited to the duration of the benefit period, if any, or to payment of the maximum

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benefits and may be subject to any policy waiting period, and all other applicable provisions of the policy.

D. Continuation or Conversion.

(1) Group long-term care insurance issued in this state on or after the effective date of this section shall provide covered individuals with a basis for continuation or conversion of coverage.

(2) For the purposes of this section, "a basis for continuation of coverage" means a policy provision which maintains coverage under the existing group policy when such coverage would otherwise terminate and which is subject only to the continued timely payment of premium when due. Group policies which restrict provision of benefits and services to, or contain incentives to use certain providers and/or facilities may provide continuation benefits which are substantially equivalent to the benefits of the existing group policy. The Commissioner shall make a determination as to the substantial equivalency of benefits, and in doing so, shall take into consideration the differences between managed care and non-managed care plans, including, but not limited to, provider system arrangements, service availability, benefit levels and administrative complexity.

(3) For the purposes of this section, "a basis for conversion of coverage" means a policy provision that an individual whose coverage under the group policy would otherwise terminate or has been terminated for any reason, including discontinuance of the group policy in its entirety or with respect to an insured class, and who has been continuously insured under the group policy (and any group policy which it replaced), for at least six months immediately prior to termination, shall be entitled to the issuance of a converted policy by the insurer under whose group policy he or she is covered, without evidence of insurability.

(4) For the purposes of this section, "converted policy" means an individual policy of long-term care insurance providing benefits identical to or benefits determined by the Commissioner to be substantially equivalent to or in excess of those provided under the group policy from which conversion is made. Where the group policy from which conversion is made restricts provision of benefits and services to, or contains incentives to use certain providers and/or facilities, the Commissioner, in making a determination as to the substantial equivalency of benefits, shall take into consideration the differences between managed care and non-managed care plans, including, but not limited to, provider system arrangements, service availability, benefit levels and administrative complexity.

(5) Written application for the converted policy shall be made and the first premium due, if any, shall be paid as directed by the insurer not later than thirty-one days after termination of coverage under the group policy. The converted policy shall be issued effective on the day following the termination of coverage under the group policy, and shall be renewable annually.

(6) Unless the group policy from which conversion is made replaced previous group coverage, the premium for the converted policy shall be calculated on the basis of the insured's age at inception of coverage under the group policy from which conversion is made. Where the group policy from which conversion is made replaced previous group coverage, the premium for the converted policy shall be calculated on the basis of the insured's age at inception of coverage under the group policy replaced.

(7) Continuation of coverage or issuance of a converted policy shall be mandatory, except where:

(a) Termination of group coverage resulted from an individual's failure to make any required payment of premium or contribution when due; or

(b) The terminating coverage is replaced not later than thirty-one days after termination, by group coverage effective on the day following the termination of coverage:

(i) Providing benefits identical to or benefits determined by the Commissioner to be substantially equivalent to or in excess of those provided by the terminating coverage; and

(ii) The premium for which is calculated in a manner consistent with the requirements of Paragraph (6) of this section.

(8) Notwithstanding any other provision of this section, a converted policy issued to an individual who at the time of conversion is covered by another long-term care insurance policy which provides benefits on the basis of incurred expenses, may contain a provision which results in a reduction of benefits payable if the benefits provided under the additional coverage, together with the full benefits provided by the converted policy, would result in payment of more than 100 percent of incurred expenses. Such provision shall only be included in the converted policy if the converted policy also provides for a premium decrease or refund which reflects the reduction in benefits payable.

(9) The converted policy may provide that the benefits payable under the converted policy, together with the benefits payable under the group policy from which conversion is made, shall not exceed those that would have been payable had the individual's coverage under the group policy remained in force and effect.

(10) Notwithstanding any other provision of this section, any insured individual whose eligibility for group long-term care coverage is based upon his or her relationship to another person, shall be entitled to continuation of coverage under the group policy upon termination of the qualifying relationship by death or dissolution of marriage.

(11) For the purposes of this section: a "Managed-Care Plan" is a health care or assisted living arrangement designed to coordinate patient care or control costs through utilization review, case management or use of specific provider networks.

Section 7. Required Disclosure Provisions

A. Renewability. Individual long-term care insurance policies shall contain a renewability provision. Such provision shall be appropriately captioned, shall appear on the first page of the policy, and shall clearly state the duration, where limited, of renewability and the duration of the term of coverage for which the policy is issued and for which it may be renewed. This provision shall not apply to policies which do not contain a renewability provision, and under which the right to nonrenew is reserved solely to the policyholder.

Drafting Note: The last sentence of this subsection is intended to apply to long-term care policies which are part of or combined with life insurance policies, since life insurance policies generally do not contain renewability provisions.

B. Riders and Endorsements. Except for riders or endorsements by which the insurer effectuates a request made in writing by the insured under an individual long-term care insurance policy, all riders or endorsements added to an individual long-term care insurance policy after date of issue or at reinstatement or renewal which reduce or eliminate benefits or coverage in the policy shall require signed acceptance by the individual insured. After the date of policy issue, any rider or endorsement which increases benefits or coverage with a concomitant increase in premium during the policy term must be agreed to in writing signed by the insured, except if the increased benefits or coverage are required by law. Where a separate additional premium is charged for benefits provided in connection with riders or endorsements, such premium charge shall be set forth in the policy, rider or endorsement.

C. Payment of Benefits. A long-term care insurance policy which provides for the payment of benefits based on standards described as "usual and customary," "reasonable and customary" or words of similar import shall include a definition of such terms and an explanation of such terms in its accompanying outline of coverage.

D. Limitations. If a long-term care insurance policy or certificate contains any limitations with respect to preexisting conditions, such limitations shall appear as a separate paragraph of the policy or certificate and shall be labeled as "Preexisting Condition Limitations."

E. Other Limitations or Conditions on Eligibility for Benefits. A long-term care insurance policy or certificate containing any limitations or conditions for eligibility other than those prohibited in [insert citation to state law corresponding to Section 6D(2) of the Long-Term Care Insurance Model Act] shall set forth a description of such limitations or conditions, including any required number of days of confinement, in a separate paragraph of the policy or certificate and shall label such paragraph "Limitations or Conditions on Eligibility for Benefits."

Section 8. Requirements for Replacement

A. Question Concerning Replacement. Individual and direct response solicited long-term care insurance application forms shall include a question designed to elicit information as to whether the proposed insurance policy is intended to replace any other accident and sickness or long-term care insurance policy presently in force. A supplementary application or other form to be signed by the applicant containing such a question may be used.

B. Solicitations Other than Direct Response. Upon determining that a sale will involve replacement, an insurer; other than an insurer using direct response solicitation methods, or its agent; shall furnish the applicant, prior to issuance or delivery of the individual long-term care insurance policy, a notice regarding replacement of accident and sickness or long-term care coverage. One copy of such notice shall be retained by the applicant and an additional copy signed by the applicant shall be retained by the insurer. The required notice shall be provided in the following manner:

NOTICE TO APPLICANT REGARDING REPLACEMENT OF INDIVIDUAL ACCIDENT AND SICKNESS OR LONG-TERM CARE INSURANCE

According to [your application] [information you have furnished], you intend to lapse or otherwise terminate existing accident and sickness or long-term care insurance and replace it with an individual long-term care insurance policy to be issued by [company name] Insurance Company. Your new policy provides ten (10) days within which you may decide, without cost, whether you desire to keep the policy. For your own information and protection, you should be aware of and seriously consider certain factors which may affect the insurance protection available to you under the new policy.

1. Health conditions which you may presently have (preexisting conditions), may not be immediately or fully covered under the new policy. This could result in denial or delay in payment of benefits under the new policy, whereas a similar claim might have been payable under your present policy.

2. You may wish to secure the advice of your present insurer or its agent regarding the proposed replacement of your present policy. This is not only your right, but it is also in your best interest to make sure you understand all the relevant factors involved in replacing your present coverage.

3. If, after due consideration, you still wish to terminate your present policy and replace it with new coverage, be certain to truthfully and completely answer all questions on the application concerning your medical health history. Failure to include all material medical information on an application may provide a basis for the company to deny any future claims and to refund your premium as though your policy had never been in force. After the application has been completed and before your sign it, reread it carefully to be certain that all information has been properly recorded.

The above "Notice to Applicant" was delivered to me on:

____
(Date)

____
(Applicant's Signature)

C. Direct Response Solicitations. Insurers using direct response solicitation methods shall deliver a notice regarding replacement of accident and sickness or long-term care coverage to the applicant upon issuance of the policy. The required notice shall be provided in the following manner:

NOTICE TO APPLICANT REGARDING REPLACEMENT OF ACCIDENT AND SICKNESS OR LONG-TERM CARE INSURANCE

According to [your application] [information you have furnished], you intend to lapse or otherwise terminate existing accident and sickness or long-term care insurance and replace it with the long-term care insurance policy delivered herewith issued by [company name] Insurance Company. Your new policy provides thirty (30) days within which you may decide, without cost, whether you desire to keep the policy. For your own information and protection, you should be aware of and seriously consider certain factors which may affect the insurance protection available to you under the new policy.

1. Health conditions which you may presently have (preexisting conditions), may not be immediately or fully covered under the new policy. This could result in denial or delay in payment of benefits under the new policy, whereas a similar claim might have been payable under your present policy.

2. You may wish to secure the advice of your present insurer or its agent regarding the proposed replacement of your present policy. This is not only your right, but it is also in your best interest to make sure you understand all the relevant factors involved in replacing your present coverage.

3. [To be included only if the application is attached to the policy.] If, after due consideration, you still wish to terminate your present policy and replace it with new coverage, read the copy of the application attached to your new policy and be sure that all questions are answered fully and correctly. Omissions or misstatements in the application could cause an otherwise valid claim to be denied. Carefully check the application and write to [company name and address] within thirty (30) days if any information is not correct and complete, or if any past medical history has been left out of the application.

____
(Company Name)

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Section 9. Discretionary Powers of Commissioner

The Commissioner may upon written request and after an administrative hearing, issue an order to modify or suspend a specific provision or provisions of this regulation with respect to a specific long-term care insurance policy or certificate upon a written finding that:

A. The modification or suspension would be in the best interest of the insureds; and

B. The purposes to be achieved could not be effectively or efficiently achieved without the modification or suspension; and

C. (1) The modification or suspension is necessary to the development of an innovative and reasonable approach for insuring long-term care; or

(2) The policy or certificate is to be issued to residents of a life care or continuing care retirement community or some other residential community for the elderly and the modification or suspension is reasonably related to the special needs or nature of such a community; or

(3) The modification or suspension is necessary to permit long-term care insurance to be sold as part of, or in conjunction with, another insurance product.

Drafting Note: This provision is intended to provide the Commissioner with limited discretion and flexibility to accommodate specific and innovative long-term care insurance products which are shown to be in the public's best interest. This provision is intended to be used sparingly for this purpose.

Section 10. Reserve Standards

A. When long-term care benefits are provided through the acceleration of benefits under group or individual life policies or riders to such policies, policy reserves for such benefits shall be determined in accordance with [cite the standard valuation law for life insurance, which contains a section referring to "special benefits" for which tables must be approved by the commissioner]. Claim reserves must also be established in the case when such policy or rider is in claim status.

Reserves for policies and riders subject to this subsection should be based on the multiple decrement model utilizing all relevant decrements except for voluntary termination rates. Single decrement approximations are acceptable if the calculation produces essentially similar reserves, if the reserve is clearly more conservative, or if the reserve is immaterial. The calculations may take into account the reduction in life insurance benefits due to the payment of long-term care benefits. However, in no event shall the reserves for the long-term care benefit and the life insurance benefit be less than the reserves for the life insurance benefit assuming no long-term care benefit.

In the development and calculation of reserves for policies and riders subject to this subsection, due regard shall be given to the applicable policy provisions, marketing methods, administrative procedures and all other considerations which have an impact on projected claim costs, including, but not limited to, the following:

(1) Definition of insured events;

(2) Covered long-term care facilities;

(3) Existence of home convalescence care coverage;

(4) Definition of facilities;

(5) Existence or absence of barriers to eligibility;

(6) Premium waiver provision;

(7) Renewability;

(8) Ability to raise premiums;

(9) Marketing method;

(10) Underwriting procedures;

(11) Claims adjustment procedures;

(12) Waiting period;

(13) Maximum benefit;

(14) Availability of eligible facilities;

(15) Margins in claim costs;

(16) Optional nature of benefit;

(17) Delay in eligibility for benefit;

(18) Inflation protection provisions; and

(19) Guaranteed insurability option.

Any applicable valuation morbidity table shall be certified as appropriate as a statutory valuation table by a member of the American Academy of Actuaries.

B. When long-term care benefits are provided other than as in Subsection A above, reserves shall be determined in accordance with [cite law referring to minimum health insurance reserves, the NAIC version of which requires reserves "using a table established for reserve purposes by a qualified actuary and acceptable to the commissioner"].

Section 11. Loss Ratio

Benefits under individual long-term care insurance policies shall be deemed reasonable in relation to premiums provided the expected loss ratio is at least sixty percent, calculated in a manner which provides for adequate reserving of the long-term care insurance risk. In evaluating the expected loss ratio, due consideration shall be given to all relevant factors, including:

A. Statistical credibility of incurred claims experience and earned premiums;

B. The period for which rates are computed to provide coverage;

C. Experienced and projected trends;

D. Concentration of experience within early policy duration;

E. Expected claim fluctuation;

F. Experience refunds, adjustments or dividends;

G. Renewability features;

H. All appropriate expense factors;

I. Interest;

J. Experimental nature of the coverage;

K. Policy reserves;

L. Mix of business by risk classification; and

M. Product features such as long elimination periods, high deductibles and high maximum limits.

Drafting Note: The enumeration of the thirteen items includes factors traditionally not allowed in calculating rates. Because of the desire to foster development of the long-term care product, the drafters' intention is that the consideration of these factors will provide sufficient latitude to achieve the sixty percent loss ratio.

Section 12. Filing Requirement

Prior to an insurer or similar organization offering group long-term care insurance to a resident of this state pursuant to Section 5 of the Long-Term Care Insurance Model Act, it shall file with the Commissioner evidence that the group policy or certificate thereunder has been approved by a state having statutory or regulatory long-term care insurance requirements substantially similar to those adopted in this state.

Section 13. Standard Format Outline of Coverage

This section of the regulation implements, interprets and makes specific, the provisions of [Section 6G of the Long-Term Care Insurance Model Act] [cite provision of law requiring the Commissioner to prescribe the format and content of an outline of coverage] in prescribing a standard format and the content of an outline of coverage.

A. The outline of coverage shall be a free-standing document, using no smaller than ten point type.

B. The outline of coverage shall contain no material of an advertising nature.

C. Text which is capitalized or underscored in the standard format outline of coverage may be emphasized by other means which provide prominence equivalent to such capitalization or underscoring.

D. Use of the text and sequence of text of the standard format outline of coverage is mandatory, unless otherwise specifically indicated.

E. Format for outline of coverage:

[COMPANY NAME]

[ADDRESS - CITY & STATE]

[TELEPHONE NUMBER]

LONG-TERM CARE INSURANCE

OUTLINE OF COVERAGE

[Policy Number or Group Master Policy and Certificate Number]

1. This policy is [an individual policy of insurance]([a group policy] which was issued in the [indicate jurisdiction in which group policy was issued]).

2. PURPOSE OF OUTLINE OF COVERAGE. This outline of coverage provides a very brief description of the important features of the policy. You should compare this outline of coverage to outlines of coverage for other policies available to you. This is not an insurance contract, but only a summary of coverage. Only the individual or group policy contains governing contractual provisions. This means that the policy or group policy sets forth in detail the rights and obligations of both you and the insurance company. Therefore, if you purchase this coverage, or any other coverage, it is important that you READ YOUR POLICY (OR CERTIFICATE) CAREFULLY!

3. TERMS UNDER WHICH THE POLICY OR CERTIFICATE MAY BE RETURNED AND PREMIUM REFUNDED.

   (a) [Provide a brief description of the right to return — "free look" provision of the policy.]

   (b) [Include a statement that the policy either does or does not contain provisions providing for a refund or partial refund of premium upon the death of an insured or surrender of the policy or certificate. If the policy contains such provisions, include a description of them.]

4. THIS IS NOT MEDICARE SUPPLEMENT COVERAGE. If you are eligible for Medicare, review the Medicare Supplement Buyer's Guide available from the insurance company.

   (a) [For agents] Neither [insert company name] nor its agents represent Medicare, the federal government or any state government.

   (b) [For direct response] [insert company name] is not representing Medicare, the federal government or any state government.

5. LONG-TERM CARE COVERAGE. Policies of this category are designed to provide coverage for one or more necessary or medically necessary diagnostic, preventive, therapeutic, rehabilitative, maintenance, or personal care services, provided in a setting other than an acute care unit of a hospital, such as in a nursing home, in the community or in the home.

   This policy provides coverage in the form of a fixed dollar indemnity benefit for covered long-term care expenses, subject to policy [limitations] [waiting periods] and [coinsurance] requirements. [Modify this paragraph if the policy is not an indemnity policy.]

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6. BENEFITS PROVIDED BY THIS POLICY.

   (a) [Covered services, related deductible(s), waiting periods, elimination periods and benefit maximums.]

   (b) [Institutional benefits, by skill level.]

   (c) [Non-institutional benefits, by skill level.]

   [Any benefit screens must be explained in this section. If these screens differ for different benefits, explanation of the screen should accompany each benefit description. If an attending physician or other specified person must certify a certain level of functional dependency in order to be eligible for benefits, this too must be specified. If activities of daily living (ADLs) are used to measure an insured's need for long-term care, then these qualifying criteria or screens must be explained.]

7. LIMITATIONS AND EXCLUSIONS.

   [Describe:

   (a) Preexisting conditions;

   (b) Non-eligible facilities/provider;

   (c) Non-eligible levels of care (e.g., unlicensed providers, care or treatment provided by a family member, etc.);

   (d) Exclusions/exceptions;

   (e) Limitations.]

   [This section should provide a brief specific description of any policy provisions which limit, exclude, restrict, reduce, delay, or in any other manner operate to qualify payment of the benefits described in (6) above.]

   THIS POLICY MAY NOT COVER ALL THE EXPENSES ASSOCIATED WITH YOUR LONG-TERM CARE NEEDS.

8. RELATIONSHIP OF COST OF CARE AND BENEFITS. Because the costs of long-term care services will likely increase over time, you should consider whether and how the benefits of this plan may be adjusted. [As applicable, indicate the following:

   (a) That the benefit level will not increase over time;

   (b) Any automatic benefit adjustment provisions;

   (c) Whether the insured will be guaranteed the option to buy additional benefits and the basis upon which benefits will be increased over time if not by a specified amount or percentage;

   (d) If there is such a guarantee, include whether additional underwriting or health screening will be required, the frequency and amounts of the upgrade options, and any significant restrictions or limitations;

   (e) And finally, describe whether there will be any additional premium charge imposed, and how that is to be calculated.]

9. TERMS UNDER WHICH THE POLICY (OR CERTIFICATE) MAY BE CONTINUED IN FORCE OR DISCONTINUED.

   [(a) Describe the policy renewability provisions;

   (b) For group coverage, specifically describe continuation/conversion provisions applicable to the certificate and group policy;

   (c) Describe waiver of premium provisions or state that there are not such provisions;

   (d) State whether or not the company has a right to change premium, and if such a right exists, describe clearly and concisely each circumstance under which premium may change.]

10. ALZHEIMER'S DISEASE AND OTHER ORGANIC BRAIN DISORDERS.

    [State that the policy provides coverage for insureds clinically diagnosed as having Alzheimer's disease or related degenerative and dementing illnesses. Specifically describe each benefit screen or other policy provision which provides preconditions to the availability of policy benefits for such an insured.]

11. PREMIUM.

    [(a) State the total annual premium for the policy;

    (b) If the premium varies with an applicant's choice among benefit options, indicate the portion of annual premium which corresponds to each benefit option.]

12. ADDITIONAL FEATURES.

    [(a) Indicate if medical underwriting is used;

    (b) Describe other important features.]

Legislative History (all references are to the Proceedings of the NAIC).

1988 Proc. I 9, 20-21, 629-630, 652, 656-661 (adopted).
1989 Proc. I 9, 24-25, 703, 754-755, 791-794 (amended).
1989 Proc. II (amended and reprinted).

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LONG-TERM CARE INSURANCE MODEL REGULATION

The date in parentheses is the effective date of the legislation or regulation, with latest amendments.

NAIC MEMBER	**MODEL/SIMILAR LEGIS.**	**RELATED LEGIS./REGS.**
Alabama	NO ACTION TO DATE	
Alaska	NO ACTION TO DATE	
Arizona	Model pending (1989).	
Arkansas	NO ACTION TO DATE	
California	Model pending (1988).	
Colorado		COLO. ADMIN. REGS. 86-5 (1986).
Connecticut		CONN. ADMIN. CODE tit. 38 §§ 174x-1 to 174x-7 (1986) (Parts of model act and regulation included).
Delaware	NO ACTION TO DATE	
D.C.	NO ACTION TO DATE	
Florida	FLA. ADMIN. CODE §§ 4-81.001 to 4-81.022 (1989).	
Georgia	GA. ADMIN. COMP. ch. 120-2-16 (1989).	
Guam	NO ACTION TO DATE	
Hawaii	Model pending (1988).	
Idaho	NO ACTION TO DATE	
Illinois	Model pending (1989).	
Indiana	Model pending (1988).	
Iowa	IOWA ADMIN. CODE §§ 191-39.1 to 191-39.10 (1988).	

LONG-TERM CARE INSURANCE MODEL REGULATION

NAIC MEMBER	MODEL/SIMILAR LEGIS.	RELATED LEGIS./REGS.
Kansas	KAN. ADMIN. REGS. § 40-4-37 (1988) (Some key provisions different).	
Kentucky		806 KY. ADMIN. REGS. 17-080 (1987).
Louisiana	NO ACTION TO DATE	
Maine		ME. INS. REG. ch. 420 §§ 1 to 12 (1988/1989) (Based partly on model).
Maryland	NO ACTION TO DATE	
Massachusetts	211 CODE of MASS. REG. 65:01 to 65:16 (1989) (Parts of model regulation included).	
Michigan	NO ACTION TO DATE	
Minnesota	NO ACTION TO DATE	
Mississippi	NO ACTION TO DATE	
Missouri	NO ACTION TO DATE	
Montana	NO ACTION TO DATE	
Nebraska	NEB. ADMIN. R. tit. 210 ch. 46 (1989).	
Nevada	Model adopted (1988).	
New Hampshire	NO ACTION TO DATE	
New Jersey	N.J. ADMIN. CODE §§ 11.4-34.1 to 11.4-34.13 pending (1989).	
New Mexico	Model pending (1988).	
New York	NO ACTION TO DATE	
North Carolina	NO ACTION TO DATE	

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LONG-TERM CARE INSURANCE MODEL REGULATION

NAIC MEMBER	MODEL/SIMILAR LEGIS.	RELATED LEGIS./REGS.
North Dakota	N.D. ADMIN. CODE §§ 45-06-05-01 to 45-06-05-09 (1988) (Amendments pending).	
Ohio	NO ACTION TO DATE	
Oklahoma	OKLA. INS. REGS. Part VI Rule 36-44A-1 (1989).	
Oregon	NO ACTION TO DATE	
Pennsylvania	NO ACTION TO DATE	
Puerto Rico	NO ACTION TO DATE	
Rhode Island	R.I. INS. REG. XLIV (1989).	
South Carolina	S.C. INS. R. 69-44 (1989).	
South Dakota	NO ACTION TO DATE	
Tennessee	NO ACTION TO DATE	
Texas	NO ACTION TO DATE	
Utah	NO ACTION TO DATE	
Vermont	NO ACTION TO DATE	
Virgin Islands	NO ACTION TO DATE	
Virginia	NO ACTION TO DATE	
Washington		WASH. ADMIN. CODE R. 284-54-010 to 284-54-900 (1988) (Some parts from model).
West Virginia	NO ACTION TO DATE	
Wisconsin		WIS. ADMIN. CODE § INS. 3.46 (1987).
Wyoming	NO ACTION TO DATE	

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National Association of Life Companies
An Association of Life & Health Insurance Companies

NALC POSITION PAPER ON S.38

NALC supports the principle of Senate Bill 38 which, if enacted, will allow federal employees to have an opportunity to convert a portion of their group life insurance coverage to group Long Term Care insurance. We applaud this innovative concept and believe it to be of great societal value.

We do, however, take strong issue with one facet of the bill we believe to be anti small company, and which, if not modified, would force us to oppose S. 38. The provision we oppose is the restrictive definition of "insurer" which would prevent federal employees from converting their group insurance benefits to purchase Long Term Care insurance from a company unless that company has "...in effect an amount of group life insurance equal to at least one percent of the total amount of employee group life insurance in the United States..." and also has "...in the judgement of the Office long term care expertise, substantial experience with insuring very large groups, and financial soundness."

We agree financial soundness is a legitimate and necessary component of any legislation facilitating investment of the life savings of Federal Employees. We take issue with using size as the criterion both on principle and on pragmatic grounds. Eliminating all but the largest insurance companies, (under this definition only about twenty carriers qualify) would help stifle the ability of smaller financially sound companies to participate in the Long Term Care market. Most of our 600 firms would not qualify under the current definition in the legislation, yet, many of these firms are developing and marketing Long Term Care products. Indeed some of them are leaders in the field. Precluding these firms from competition goes against the very principles of the free enterprise system.

From a pragmatic standpoint such restrictions are entirely unnecessary with the very reasonable reinsurance requirement built into the legislation. Such restrictions could severely work against the viability of this creative idea. With mergers and acquisitions occurring as a matter of course, the field of twenty qualified insurers might be in such a state of flux that OPM could have no sense of certainty that an insurer near the bottom of the list of twenty will qualify year after year. So, for practical reasons, in order to assure compliance with the law, OPM would be forced to only select companies near the top of the list.

If name recognition is the intent, we can only emphasize again that there are many leaders in the Long Term Care market that would be precluded from competition under the bill as currently drafted.

We respectfully ask that the size restriction be removed from S.38 and free and open competition be allowed.

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NATIONAL COMMITTEE TO PRESERVE
SOCIAL SECURITY AND MEDICARE

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STATEMENT OF
MARTHA McSTEEN
PRESIDENT
THE NATIONAL COMMITTEE TO PRESERVE SOCIAL SECURITY AND MEDICARE

SUBMITTED TO
COMMITTEE ON GOVERNMENT AFFAIRS
FEDERAL SERVICES, POST OFFICE AND CIVIL SERVICE SUBCOMMITTEE

REGARDING
S.38, FEDERAL EMPLOYEES LONG-TERM CARE INSURANCE ACT OF 1989

NOVEMBER 2, 1989

I am Martha McSteen, President of the National Committee to Preserve Social Security and Medicare. Members of the National Committee are committed to work toward a comprehensive long-term care system for all Americans. We see this system as one of a public-private partnership. Particularly, we are counting on the Pepper Commission, on which you serve, to put forward a realistic blueprint for step by step implementation.

One component of the system should be employer efforts to make long-term care insurance available to employees. That is why we support Senator Wilson's S. 38, Federal Employees Long-term Care Insurance Act of 1989. It is important that government set an example for private industry by offering long-term insurance to federal employees at group rates. To help older employees, S. 38 would allow 50-year olds to convert their life insurance to long-term care insurance -- and, at lower premiums because the government would continue its contribution. The opportunity to obtain long-term care coverage at low cost, and the fact that health status would not be a consideration for participation in the program, should make the offer attractive to federal employees. By age 50, many employees have met their major financial obligations towards dependents and are ready to begin planning for their own future -- planning which should include long-term care. Our only concerns are that the rights of spouses are respected so the decision to convert life insurance must be a joint one, and that any options allowed current employees under S. 38 also be offered retired employees.

Having the government offer private long-term care insurance to its employees gives you the opportunity to set standards for what constitutes a good policy and what does not. Once found acceptable by the government, such policies are more likely to be used by private employers. However, the lack of affordable, good insurance products could be a major weakness in the legislation. A United Seniors Health Cooperative study found that most long-term care policyholders who enter a nursing home will never collect any benefits from the plans it analyzed. Although Consumer Reports has reported substantial improvement in the quality of long-term care insurance products, serious flaws remain. Some of the most important flaws are the lack of indexation and affordability. While many more policies now offer inflation protection, it is usually not part of the basic policy but sold as a rider at additional costs. Younger employees will not be attracted to policies whose dollar value may be severely eroded when they will need them some thirty or forty years later, yet the extra cost may deter them from buying coverage. Older employees will continue to find comprehensive long-term care insurance prohibitively expensive.

Private insurance products will continue to be flawed as long as insurance companies worry about open-ended liability and as long as there are no national standards and definitions. Setting standards along the lines of model legislation developed by the National Association of Insurance Commissioners (NAIC) is not enough. While about two-thirds of the states have adopted the NAIC standards, in reality each state has adopted its own version of the NAIC standards, resulting in variations in both definitions and standards. Furthermore, Consumer Reports reminds us that the new standards do nothing to change the old, more restrictive policies of which there are some 800,000 still in force.

As valuable as private long-term care initiatives can be, the National Committee believes that the impact of these initiatives, including Senator Wilson's legislation, will remain limited unless an equal effort is spent expanding Medicare to provide a long-term care framework. This would create a relationship similar to the one between Medicare and medigap insurance for acute care expenses. Under even the most optimistic scenario developed by the Brookings Institution, private insurance would only cover one-third of the long-term care burden sometime in the next decade.

NTEU
The National Treasury Employees Union

STATEMENT OF

ROBERT M. TOBIAS
NATIONAL PRESIDENT
NATIONAL TREASURY EMPLOYEES UNION

TO THE

SUBCOMMITTEE ON FEDERAL SERVICES,
POST OFFICE AND CIVIL SERVICE
COMMITTEE ON GOVERNMENTAL AFFAIRS

THE HONORABLE DAVID PRYOR
CHAIRMAN

ON

S.38, THE FEDERAL EMPLOYEES LONG TERM CARE INSURANCE ACT OF 1989

UNITED STATES SENATE
WASHINGTON, D.C.

NOVEMBER 2, 1989
9:30 a.m.

1730 K Street, N.W. • Suite 1101 • Washington, D.C. 20006 • (202) 785-4411

I am Robert M. Tobias, President of the National Treasury Employees Union. NTEU represents approximately 144,000 federal employees and like workers everywhere, they are increasingly interested in long term care insurance coverage.

I appreciate this opportunity to share our thoughts on S.38, the Federal Employees Long Term Care Insurance Act of 1989. While NTEU has gone on record in support of a long term care benefit package for federal employees, we are unable to support S.38 as currently drafted.

This legislation envisions federal employees making a one time irrevocable decision at age 50 to convert the bulk of their life insurance and accumulated reserves into a long term care insurance policy. Federal employees not wishing to convert could still enroll in the plan, but would pay higher premiums. Again, the opportunity to enroll would occur only at age 50.

The merits of structuring this program so that a once-in-a-lifetime decision must be made precisely at age 50 certainly appear questionable. According to the Health Insurance Association of America, the average individual today purchasing group long term care coverage is 40 years old. Offering this type of coverage to federal employees well before age 50 would seem to make sense. As with life insurance, the age at the time of purchase is the most critical factor in determining long term care insurance premiums. The younger the person is when purchasing the policy, the more reserves can be accumulated to cover costs when benefits must be paid, and therefore, premiums can be lower.

Allowing eligibility at age 40 rather than 50 could obviate the need to transfer life insurance reserves to cover these anticipated costs. We have grave concerns about the trade-in aspect of this bill, and, in fact, we do not know of any precedents for converting life to long term care insurance in this manner in private sector group plans.

Long term care insurance should be offered to federal employees, but not through a process that coerces them into relinquishing another valuable benefit. Individual circumstances vary widely and the issue of trading life insurance for long term care insurance -- at any age -- is a difficult decision that we would prefer our members not have to make. It is not unreasonable to assume that federal employees approaching age 50 could still have dependent children and mortgage debts and a myriad of other reasons for retaining adequate life insurance.

Although a major component of S. 38 is this transfer of life insurance reserves to long term care insurance, the legislation fails to outline educational efforts that would be undertaken. This is especially troubling because there is no evidence to suggest that either federal or private sector employees generally have the insurance or financial planning background necessary to make this kind of decision. Were this type of choice between FEGLI and long term care insurance to be offered, an extensive educational effort would be required on the part of OPM to counsel employees considering such a switch. The FERS pension system legislation which did mandate broad educational efforts by OPM is instructive here. Educational outreach by OPM to sell the FERS program was no less than disastrous. I cannot help but be skeptical as to whether or not OPM could provide employees with a clear understanding of the long-term financial decisions they would be making.

The educational needs present here cannot be overstated. A federal long term care insurance program could not succeed without the active participation of the employees and the organizations which represent them. An advisory council similar to that which accompanies the thrift board should be established to undertake the necessary educational effort. In this manner, we can insure that federal employees are fully educated about their needs for long term care insurance.

As I have stated, we have significant problems with the age and life insurance trade-in provisions of this legislation. There are a number of other fundamental principles which we believe should be included in a long term care policy for federal employees and I have outlined our concerns in these areas below.

- Inflation adjusted benefits are mandatory. If a long term care policy does not cover the costs of services when those needs actually occur, there is no point in purchasing it. S. 38 vaguely refers to adjusting benefits and premiums based on the average percentage of adjustments in General Schedule pay rates. It is no secret to the Members of this Committee that GS pay rates have not kept pace with inflation; never mind health care inflation. According to the Presidents' pay agent, federal employees already suffer from a 28.6% pay gap when compared with the private sector. Are we to assume that these same federal employees only deserve long term care benefits that are equally out of line with reality? It is unconscionable that federal employees could find themselves in a situation where they have given up the bulk of their life insurance for long term care insurance that isn't worth the paper it's printed on.

Unless the Administration and Congress work to correct the pay crisis, the long term care benefits under this bill would soon become inadequate to cover actual costs. The families of these federal employees would be forced to make up the difference and eventually spend down their resources to the point of requiring Medicaid covered long term care benefits. In fact, the benefit this legislation purports to provide would only delay the inevitable. Federal employees will not settle for mediocre or inadequate long term care benefits. Nor will we recommend to the employees we represent that they spend their hard-earned money for a benefit package that is not indexed in a manner that bears a meaningful relationship to escalating health care costs.

Average nursing home costs range from $22 to $25 thousand per year. Every expectation is that these costs will continue to rise. For long term care insurance to be successful, I think most experts would agree, will require a cooperative effort on behalf of both employees and employers. We believe this must include employers sharing in the premium expenses as well.

o We are equally concerned about coverage for family members other than spouses. Provisions do not seem to have been made in S. 38 for coverage of dependents, including parents and parents-in-law. Private group policies currently available have responded to the needs of the extended family by providing coverage not only for employees, but spouses, children and both sets of parents.

- Congress recognized the need for the portability of benefits when it established the FERS program. Portability of long term care benefits is equally important. Federal employees who leave government service should be able to continue their long term care insurance coverage at group rates and this provision should be clearly spelled out in legislation.

- Coverage for the growing number of federal retirees must also be included. Federal annuitants need affordable long term care insurance protection as well and any federal program enacted must embrace this group.

Although we do not support S. 38, long term care insurance is a subject we are anxious to work with this body in developing. We are an aging population and analysts predict that in 10 short years as many as 8 million Americans will require some form of long term care.

The perfect vehicle for providing this coverage for federal employees may very well be on the horizon. Within the next few months, we will begin to work with this Committee on reform of the Federal Employees Health Benefits Program.

I hope that the addition of long term care insurance to the existing federal employee benefit package can be discussed in this context. The concept of a flexible benefits package for federal employees that includes health insurance, long term care insurance, and other relevant needs is one we would be interested in exploring further with this Committee.

Thank you again for this opportunity to share our views on long term care insurance for federal employees.

UNITED SENIORS

SPECIAL REPORT

PRIVATE LONG-TERM CARE INSURANCE:
How Well Does It Meet Consumer Needs?

Most older Americans worry about how they will pay for nursing home care or for help at home if the need arises. They question whether they will have sufficient assets to cover their costs. Should they count on government health insurance programs to pay or should they invest in a long-term health care insurance policy?

At present, nearly one-half of nursing home costs are paid out-of- pocket by individual consumers. With a one year's stay costing $25,000 or more, many older people can easily deplete a lifetime of savings in a relatively short period of time.

Recently, James P. Firman, president of United Seniors Health Cooperative (USHC), announced the results of a study of long-term care insurance policies sold in Virginia, Maryland, and the District of Columbia.

Dr. Firman along with Dr. William Weissert and his associates at the University of North Carolina's School of Public Health investigated 77 typical plans offered by 21 companies that sell long-term care insurance. What they discovered about the policies they studied was disturbing:

- **The average probability that a policy holder would NOT collect any benefits after entering a nursing home was 61%!**
- **Only 18% of the policies provided a better than fifty-fifty chance of ever paying benefits!**

Most older Americans are fortunate to be able to live independently, in a retirement community, or with family. Many—about 25% to 30%—however, will spend some time in a nursing home, and five percent—about 1.3 million annually—now require long-term nursing care.

Fully 50% of them will have their care financed by Medicaid, after they have spent down their savings and sold off their assets.

Although Medicare now covers up to 150 days per year in a nursing home, it covers only skilled level care, the kind that older persons are least likely to need.

The private long-term care insurance market is still relatively small (about 500,000 policies have been sold), but a growing number of companies are entering the field. How well is private insurance meeting individual and public needs? To find out, researchers asked three questions:

- What is the probability that policy holders will collect benefits after being admitted to a nursing home?
- How much of the cost of a long-term stay will the policy pay and how much will the insured have to pay?
- How comprehensive is the coverage for at-home nursing care?

United Seniors Health Cooperative is a non-profit organization of Washington, D.C. area consumers working together to improve the quality and reduce the cost of health care for older persons. USHC represents its members interests only and has no ties to any insurance company. © Copyright September, 1988, USHC. All rights reserved.

What We Learned

A confusing array of prerequisites, restrictions, and complex variables determine whether consumers will benefit from these private insurance plans. In five major areas, restrictions serve to reduce the company's risk at the consumer's expense. According to the researchers, these restrictions are serious flaws in the insurance industry's long-term care offerings:

Prior hospitalization requirements. Seventy-seven percent of the plans studied require prior hospitalization for the condition which necessitates entry into the nursing home. Yet more than 50% of admissions do not come directly from the hospital and would not meet this requirement!

Prior skilled-level care requirements. Forty percent of the plans studied require that a policyholder first receive skilled nursing care to qualify for other benefits in a nursing home. An estimated 46% of nursing home residents would not meet this requirement!

Lack of inflation protection. Two-thirds of the policies studied do not offer benefits that increase with inflation. Considering that costs are likely to double in the next 10 to 20 years, consumers can be stuck with a whopping bill to pay. If a policyholder buys a $50-per-day plan today without inflation protection, in 20 years it may cover less than 33% of the expected cost of his or her care.

Home care benefits. The home care benefits in most current plans are often overstated and, unfortunately, will not be of much real help to most people who need them.

Coverage for Alzheimer's disease. Although most plans say they cover Alzheimer's disease, many patients will never be able to collect benefits. More than 81% of the plans that provide protection for Alzheimer's also require either prior hospitalization or skilled-level nursing home care. Given the nature of the disease, many Alzheimer's patients may not meet these requirements. For them, long-term care plans are seldom as good as they look.

Effects of Policy Restrictions on Collecting Benefits If You Enter a Nursing Home

If You Buy a Policy With This Restriction		Your Chances of NOT Collecting Benefits Are:
Prior Hospitalization		53.4%
Prior Skilled Care Required		45.5%
Exclusion for Alzheimer's disease		4.6%
Deductible or Elimination Period:	20 days	13.2%
	90 days	32.2%
	150 days	39.4%

Conclusions

"Any long-term care product that is not likely to pay benefits if the policy holder enters a nursing home is an inferior product," says James Firman. "It is worse than a bad buy for consumers," he adds. "It is contrary to the public interest."

Consumers would not consider buying a homeowner's policy offering fire damage protection which would only pay for the costs of rebuilding one or two rooms of a house which has been damaged throughout or would not cover fires originating on the first floor of a two-story house. "Yet," Dr. Firman points out, "we allow many insurance companies to sell long-term care policies that will probably not pay off for most people who enter nursing homes and need coverage."

★ ★ ★ ★ ★ ★ ★ ★ ★ ★ ★ ★

What Should Consumers Do?

What can older people do in the absence of comprehensive and affordable private long-term insurance? How can they plan ahead to meet financial needs they cannot predict? In a new publication, *Long Term Care: A Dollar and Sense Guide*, experts at United Seniors make several recommendations. These include:

- Develop a plan that stresses flexibility and use of all available public and private resources. There is no one-size-fits-all solution!
- Consider all the options for financing long-term care—only one of which is private insurance.
- Look for alternatives to private long-term care insurance. Consider continuing care retirement communities, supportive living arrangements, home equity conversion, and other creative uses of your home.
- Government programs such as Medicaid, Medicare, Veterans Admistration benefits, and Older Americans Act services may also be of some help. Learn more about them.
- Do not buy private long-term care insurance if you must pay the premium from your savings. For most people with incomes of less than $15,000 and less than $50,000 in savings, private insurance does not prevent, but merely delays, the need for Medicaid assistance if nursing home care is required for a long period of time.
- Buyer Beware! As our study shows, there are a lot of bad plans on the market. Consumers should not allow themselves to be led into buying a policy by insurance company representatives using high-pressure sales techniques or out of fear.
- Take the time to discuss the provisions of a policy you are considering with a trusted friend or advisor. Ask to see the actual policy, not just a brochure. Make sure you understand exactly what it does and does not cover and what restrictions it contains.

If you decide to buy a private long-term care insurance plan, make sure it meets USHC's recommended criteria:

United Seniors Recommends:

1. A deductible period of no more than 90 days;
2. Benefit inflation adjustment of at least 5% per annum or actual costs;
3. No prior hospitalization restriction;
4. Coverage for custodial and intermediate care without first requiring skilled care;
5. Written statement of coverage for Alzheimer's disease;
6. Guaranteed renewable;
7. Purchase from a company with an A+ or A rating from A.M. Best.

United Seniors Health Cooperative advises people who have already purchased policies that do not meet these seven criteria to consider switching plans.

There is no substitute for being an informed consumer.
For a thorough discussion of the options available for financing long-term care and the pros and cons of each, read ***Long Term Care: A Dollar and Sense Guide.***
To get a copy send $6.95 to United Seniors, 1334 G St. NW, Suite 500, Washington, DC 20005

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HIAA
ON
LONG-
TERM
CARE

COMPANIES SELLING LONG-TERM CARE INSURANCE

(as of January 1990)

Company names that are italicized are affiliates or subsidiaries of the company above them.

Acceleration Life Insurance Company
Adjustable Life Insurance Company
*Aetna Life & Casualty[1]
AIG Life Insurance Company
*Aid Association of Lutherans
*Allstate Life Insurance Company
American Benefit Life Insurance Company
American Independent Insurance Company
*American Integrity Insurance Company
American Travellers Life Insurance Company
*AMEX Life Assurance Company
*American Centurion Life & Accident Assurance Company
*IDS Life Insurance Company
*Associated Doctors Health and Life Insurance Company
Atlantic American Life Insurance Company
Bankers Fidelity Life Insurance Company
Atlantic & Pacific Life Insurance Company of America
*Bankers Life and Casualty Company
*Bankers Multiple Line Insurance Company
*Certified Life Insurance Company
*Union Bankers Insurance Company
Blue Cross and Blue Shield of Arizona
California Physicians' Insurance Company
  (subsidiary of Blue Shield of CA)
Blue Cross and Blue Shield of Connecticut
Blue Cross and Blue Shield of Indiana
Blue Cross and Blue Shield of Iowa
Blue Cross and Blue Shield of Kansas
Blue Cross and Blue Shield of Kentucky
Blue Cross and Blue Shield of Minnesota
Blue Cross and Blue Shield of Montana
Combined Services, Inc.
  (subsidiary of Blue Cross/Shield of NH)
Finger Lakes LTC Insurance Company[1]
  (subsidiary of Blue Cross/Shield of Rochester)
Group Insurance Services
  (subsidiary of Blue Cross/Shield of NC)
Blue Cross and Blue Shield of North Dakota
Medical Life Insurance Company
  (subsidiary of Blue Cross/Shield Mutual of Northern OH)
Consumer Services Casualty Insurance Company
  (subsidiary of Blue Cross of Western PA)
Group Services, Inc.
  (subsidiary of Blue Cross/Shield of UT)
Blue Cross and Blue Shield of West Virginia
Blue Cross and Blue Shield of Wyoming
Blue Cross of Washington and Alaska
*Bradford National Life Insurance Company
*Centennial Life Assurance Company[2]
Central Security Life Insurance Company
*Central States Health and Life Company of Omaha
*Colonial Life & Accident Insurance Company[2]
Columbia Life Insurance Company
Columbia Accident and Health Insurance Company
*Combined Insurance Company of America
Commonwealth Life Insurance Company
*Continental Casualty Company (CNA)[1]
*Valley Forge Life Insurance Company[2]
Continental Western Life Insurance Company[2]
*Country Life Insurance Company
Equitable Life and Casualty Company
*Federal Home Life Insurance Company
*Harvest Life Insurance Company
First National Life Insurance Company
First Penn Pacific Life Insurance Company[2]
First United American Life Insurance Company
*Gerber Life Insurance Company
Golden Rule Insurance Company[2]

Health Insurance Association of America

1025 Connecticut Avenue N.W., Washington, DC 20036 ▭ 223-7780 ▭ FAX 223-7897

Great Fidelity Life Insurance Company
Great Republic Insurance Company
Hartford Insurance Company
Independence Nursing Insurance Company
Integrity National Insurance Company
ITT Life Insurance Company[2]
*John Alden Life Insurance Company
*John Hancock Mutual Life Insurance Company[1]
*Life Investors Insurance Company of America
*NN Investors Life Insurance Company
Life and Health Insurance Company of America
Lincoln Benefit Life Company[2]
*Lincoln National Life Insurance Company[2]
*Lutheran Brotherhood
Medical Life Insurance Company
*Medico Life Insurance Company
*Mutual Protective Insurance Company
*Metropolitan Life Insurance Company[3]
MidAmerica Mutual Life Insurance Company
The Midland Mutual Life Insurance Company
*MONY Financial Services
*Mutual of Omaha[1]
National Foundation Life Insurance Company
*National States Insurance Company
*National Travelers Life Insurance Company[2]
*New York Life Insurance Company
*North American Life & Casualty Company
*Northwestern National Life Insurance Company
Old Southern Life
*Pan-American Life Insurance Company
Pekin Life Insurance Company
Penn Treaty Insurance Company
People's Security Life Insurance Company
*Physicians Mutual Insurance Company
Pilgrim Life Insurance Company
Pioneer Life Insurance Company of Illinois
*The Principal Financial Group[4]
*Provident Life and Accident Insurance Company
Providers Fidelity Life Insurance Company
*Prudential Insurance Company of America
Pyramid Life Insurance Company
*Reserve Life Insurance Company
Security Connecticut Life Insurance Company[2]
*Sentry Life Insurance Company
*Standard Life & Accident Insurance Company
State Life Insurance Company of Indianapolis[2]
*Time Insurance Company
*Transport Life Insurance
*The Travelers Insurance Company[1]
*Union Labor Life Insurance Company
*United American Insurance Company
*United Farm Bureau Family Life Insurance Company[2]
United General Life Insurance Company
United Security Assurance Company of Pennsylvania
*UNUM Life Insurance Company[3]
Washington Health Services
World Life and Health Insurance Company of Pennsylvania

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*HIAA Member Company

Unless otherwise noted, all companies listed provide an individual or group association plan.

1Provides an individual and employer-sponsored plan.

[2] Offered as part of a life insurance policy.

[3] Provides an employer-sponsored plan and coverage to members of a continuing care retirement community.

[4] Provides an employer-sponsored plan.

[5] Provides coverage to employer groups and specifically defined senior-age groups, including retirement housing.

SOURCES: Department of Health and Human Services, Health Insurance Association of America, American Council of Life Insurance, Blue Cross and Blue Shield Association and Consumer's Union.

January 1990

Description of Long-term Care Insurance Products

Long-term Care: What Is It?

Long-term care refers to a wide range of personal care, health and social services that are needed by people of any age who experience a chronic illness or disability.

Types of Long-term Care Insurance

- Individual Long-term Care Insurance
- Employer-sponsored Long-term Care Insurance
- Long-term Care Insurance for Retirement Housing or Communities
- Long-term Care Payments from Life Insurance Policies (Accelerated Death Benefits)

Product Characteristics

Individual and Employer-sponsored Long-term Care Insurance Policies

Premiums: Premiums are established on an entry-age level basis, which means that they will not increase as the individual gets older or his physical condition changes. The premium could be increased only if it is increased for all individuals who purchased that policy.

Benefits: Policies pay a certain amount per day when the insured receives covered care in a licensed nursing home or adult day care facility. A smaller amount per day (usually one-half) is paid when covered care is provided in the home.

Coverage: Covered care includes diagnostic, preventive, therapeutic or rehabilitative services. It also includes personal care services, i.e. assistance with the normal activities of daily living (eating, mobility, bathing, toileting or dressing). These services are generally covered whether an individual is in a licensed skilled or intermediate care facility or is at home.

Guaranteed Renewability: The policy cannot be cancelled by the insurance company if premiums are timely paid.

Inflation Protection: More than 70 percent of the policies introduced since 1988 offer a means for increasing the benefit amount over time to account for inflation.

Free-look: Most policies offer consumers a 30-day free-look period.

Prior Hospitalization: Almost all newer policies do not require prior hospitalization before covering a nursing home stay.

Prior Institutionalization: Most newer policies do not require prior institutionalization before covering home health care.

Extension of Coverage: Employer-sponsored coverage is typically extended to dependent spouses and can also include parents and parents-in-law.

Life Insurance Products (Accelerated Death Benefits)

Benefits: The policy pays a certain percentage of the policy's death benefit each month the policyholder receives covered care. As these "living benefits" are paid, the death benefit is commensurately reduced. For example, if an individual owns a life insurance policy with a $100,000 death benefit and a long-term care benefit of two percent per month, the individual would receive $2,000 a month for his long-term care needs. After the first payment, the death benefit would be $98,000 and would decrease an additional $2,000 each month the long-term care benefit is paid.

Premiums: The cost for this coverage is a certain percentage of the cost of the basic life insurance protection.

Coverage: Payments are made to an insured for the same services and under the same circumstances as an individual or employer-sponsored long-term care policy.

Why the Private Sector Can Play a Significant Role in Helping to Solve the Nation's Long-term Care Problem

I. Many Americans Are Interested in Buying Private Long-term Care Insurance

- A 1988 survey by the University of Maryland reveals that 55% of a random sample of individuals aged 18 and older indicated they could afford a long-term care policy if the premium was $100/month.
- An additional 17% said they would be able to pay $50/month for such a policy. (University of Maryland)
- The average age at purchase of the 1.3 million individuals who currently own a long-term care insurance policy is 70. (Health Insurance Association of America study, "Research Bulletin: Market Trends")
- 56% of life insurance policyholders aged 25 - 65 would have likely added a long-term care rider to their policy if it had been available. (1989 Survey by Opinion Research Corporation) There is no reason to believe that those over aged 65 who own life insurance would act any differently.
- 38% of those surveyed who have no individual life insurance would have likely purchased a life insurance policy if a long-term care rider had been offered. (ORC Survey '89)
- 46% of the respondents to a 1989 survey of 1,000 consumers conducted by Gallup indicated that they would be interested in buying a life insurance policy that offers long-term care benefits.

II. Long-term Care Insurance Is Affordable

- $100/month premium will provide a 65-year-old with a long-term care benefit of $2,400/month ($80/day), for a 4-year period, inflation protected. University of Maryland survey found that 55% surveyed said that $100/month was affordable.
- Average face amount of individual permanent life insurance purchased in 1988 was $52,500, which would produce a typical long-term care benefit of $1,050/month. For an additional 5% premium, long-term care protection can be added to a life insurance policy through accelerated payment of the death benefit.

III. Long-term Care Insurance Policies Are Consumer Responsive

- Guaranteed Renewable—a policy cannot be cancelled if the premium is paid.
- Inflation protection is widely available.
- Free-Look—there are 30 days to examine policy as protection against sales abuses.
- Few Restrictions—no prior hospitalization for nursing home benefit; no prior institutionalization for home health care benefit.

- Alzheimer's disease protection is required.

IV. Employer Interest in Long-term Care Is Growing

- Currently, over 50 large employers include long-term care as an employee benefit.
- Average age of covered participants is 40; average premium is $200/year.
- Most plans offer coverage to spouses, parents and in-laws.
- Most plans also cover retirees and their spouses.

V. ACLI/HIAA Proposed Legislation Will Further Encourage the Development and Growth of Private Long-term Care Insurance

The insurance industry bill clarifies that amounts received under a qualified long-term care insurance policy will be taxed in the same manner as amounts received under an accident or health insurance policy. This means that:

- Long-term care benefits paid under life insurance or individual long-term care policies would be excludable from the income of the policyholder.
- Contributions made by an employer on behalf of its employees to a long-term care insurance plan would not be includable in the employees' income.
- Long-term care would be allowed as a benefit in a cafeteria plan with the tax results that flow therefrom.

The bill will also allow individuals to draw on existing assets from long-term savings vehicles without adverse tax consequences, if such assets are used to purchase long-term care insurance or to pay for long-term care expenses.

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